International Labour Conference
80th Session 1993

Report III
(Part 4A)

Report of the Committee of Experts on the Application of Conventions and Recommendations

General report and observations concerning particular countries

---

International Labour Office Geneva

International Labour Conference
80th Session 1993

Report III
(Part 4 A)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

Report of the Committee of Experts on the Application of Conventions and Recommendations

(Articles 19, 22 and 35 of the Constitution)

General report
and observations concerning particular countries

International Labour Office Geneva

READEX
FICHE

ISBN 92-2-108499-X
ISSN 0074-6681

First published 1993

The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed in Switzerland ROT

CONTENTS

Page

Index to comments made by the Committee, by country VII

PART ONE

GENERAL REPORT

I. Introduction 3

II. General 9

Membership of the Organisation 9

New standards adopted by the Conference in 1992 9

Ratifications and denunciations 9

Constitutional and other procedures 10

A. Complaints submitted under article 26 of the ILO Constitution 10

B. Representations submitted under article 24 of the ILO Constitution 11

C. Special procedures concerning freedom of association . 12

Functions in regard to other international and regional instruments 13

A. International Covenant on Economic, Social and Cultural Rights 13

B. United Nations Convention on the Elimination of All Forms of Discrimination Against Women 13

C. United Nations Convention on the Rights of the Child 13

Page

D. European Code of Social Security and Protocol thereto 14

E. European Social Charter and Additional Protocol 14

Collaboration with other international organizations 15

A. Cooperation in the field of standards with the United Nations and specialized agencies 15

B. Relations between the ILO and the European Community . 15

Matters relating to human rights 16

Questions concerning the application of Conventions 17

Application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) 17

Application of the Employment Policy Convention, 1964 (No. 122) 18

Application of standards in specific circumstances: Export processing enterprises and zones 20

III. Technical assistance in the field of standards 21

A. Direct contacts and cooperation in the field of standards 21

B. Standards and technical cooperation 22

IV. Role of employers' and workers' organizations 23

Observations made by employers' and workers' organizations.. 24

V. Reports on ratified Conventions (articles 22 and 35 of the Constitution) 28

Supply of reports 28

Reports requested and received 28

Compliance with reporting obligations 29

Late reports 29

Supply of first reports 30

Replies to comments of the supervisory bodies 30

Page

Examination of reports 32

Observations and direct requests 32

Cases of progress 32

Practical application 34

VI. Submission of Conventions and Recommendations to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution) 36

78th Session 36

31st to 77th Sessions 36

General aspects 37

Comments of the Committee and replies from governments ... 37

Special problems 38

Submission of certain instruments to the appropriate authorities of the European Community 38

VII. Instruments chosen for reports under article 19 of the Constitution 39

General Survey 39

PART TWO

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning annual reports on ratified Conventions (article 22 of the Constitution) 43

A. General observations 43

B. Individual observations 47

Appendix I. Receipt of detailed reports on ratified Conventions (States Members) as at 24 March 1993 474

Appendix II. Statistical table of reports received on ratified Conventions as at 24 March 1993 484

		Page
II.	Observations on the application of Conventions in non-metropolitan territories (articles 22 and 35, paragraphs 6 and 8, of the Constitution)	486
	A. General observations	486
	B. Individual observations	486
	Appendix. Receipt of detailed reports on ratified Conventions (non-metropolitan territories) as at 24 March 1993	501
III.	Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution)	504
	Appendix I. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities	522
	Appendix II. Overall position of member States as at 24 March 1993	531

PART THREE

GENERAL SURVEY OF THE REPORTS ON THE WORKERS WITH FAMILY RESPONSIBILITIES CONVENTION (No. 156) AND RECOMMENDATION (No. 165), 1981

This part of the report is published in a separate volume as Report III (Part 4B).

INDEX TO COMMENTS MADE BY THE COMMITTEE, BY COUNTRY

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Afghanistan	General Report, paras. 87, 96	Art. 22, general Art. 22, Nos. 95, 111, 137, 139, 141 Subm.
Albania	General Report, para. 87 I A	
Algeria	I B, Nos. 13, 32, 62, 63, 92, 105, 111, 119, 122 III	Art. 22, Nos. 29, 68, 81, 87, 91, 99, 100, 105, 111, 120, 138, 142
Angola	General Report, pras. 87, 96 I B, No. 111	Art. 22, general Art. 22, Nos. 19, 26, 91, 108, 111 Subm.
Antigua and Barbuda	General Report, pras. 87, 96, 121 I A and B, No. 87 III	Art. 22, Nos. 17, 29, 98, 111, 138
Argentina	I B, Nos. 3, 87, 100, 111	Art. 22, Nos. 9, 26, 32, 52, 68, 87, 95, 100, 142, 156, 159 Subm.
Australia	I B, Nos. 100, 111	Art. 22, Nos. 29, 87, 100, 111, 131, 159, 160
Austria	I B, Nos. 26, 100, 103	Art. 22, Nos. 87, 99, 100, 103, 135, 160 Subm.
Bahamas	General Report, Paras. 87, 96 I B, Nos. 42, 81, 144	Art. 22, general Art. 22, Nos. 26, 29, 94, 105, 117 Subm.
Bahrain		Subm.

---

[1] The roman numerals and letters refer to sections of Part Two of this report and the arabic numerals to the numbers of the Conventions.

[2] The abbreviations used in respect of direct requests are the following:
"Art. 22": application of ratified Conventions in member States.
"Art. 35": application of ratified Conventions in non-metropolitan territories.
"Subm.": submission of Conventions and Recommendations to the competent authorities.
The numbers refer to Conventions.

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Bangladesh	General Report, para. 121 I B, No. 107 III	Art. 22, Nos. 27, 107, 111, 144
Barbados	I B, Nos. 87, 100, 111, 118	Art. 22, general Art. 22, Nos. 26, 29, 63, 81, 105, 111, 122, 144
Belarus	I B, Nos. 29, 87, 111	Art. 22, Nos. 87, 111, 122, 142 Subm.
Belgium	I B, Nos. 87, 147	Art. 22, Nos. 111, 125 Subm.
Belize	General Report, Paras. 87, 96, 121 III	Art. 22, general Art. 22, No. 26
Benin	General Report, para. 87	Art. 22, Nos. 111, 143 Subm.
Bolivia	I B, Nos. 1, 20, 30, 81, 87, 102, 103, 118, 122, 129, 131 III	Art. 22, general Art. 22, Nos. 87, 100, 111, 118, 120, 124, 131
Botswana		Subm.
Brazil	I B, Nos. 29, 81, 91, 94, 103, 105, 107, 111, 115, 118, 122, 142, 152 III	Art. 22, Nos. 19, 88, 92, 106, 111, 115, 118, 131, 135, 145
Bulgaria	I B, No. 111	Art. 22, Nos. 29, 87, 120 Subm.
Burkina Faso	I B, Nos. 87, 111	Art. 22, Nos. 29, 33, 81, 97, 100, 111, 129, 131, 132, 143, 159 Subm.
Burundi	I B, Nos. 29, 105	Art. 22, Nos. 11, 105
Cambodia	General Report, Paras. 87, 121, 125 I A III	
Cameroon	General Report, Paras. 87, 93, 96 I A and B, Nos. 9, 87, 98	Art. 22, general Art. 22, Nos. 3, 9, 87, 98, 100, 111, 122, 158 Subm.

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Canada	I B, Nos. 87, 111, 122	Art. 22, Nos. 87, 100, 111
Cape Verde	I B, No. 81 III	Art. 22, Nos. 19, 29, 81, 98, 100, 111, 118
Central African Republic	General Report, Paras. 87, 96 I B, Nos. 19, 29, 81, 87, 105, 118, 119 III	Art. 22, general Art. 22, Nos. 13, 26, 29, 87, 95, 100, 105, 111, 117, 118
Chad	I B, Nos. 26, 87	Art. 22, general Art. 22, Nos. 87, 100, 111 Subm.
Chile	I B, Nos. 1, 3, 9, 20, 24, 25, 30, 35, 36, 37, 38, 111	Art. 22, Nos. 2, 3, 26 Subm.
China	General Report, paras. 87, 96	Art. 22, general Art. 22, Nos. 26, 159 Subm.
Colombia	I B, Nos. 3, 9, 12, 26, 87, 106, 107, 111	Art. 22, Nos. 3, 7, 26, 87, 88, 99, 107, 159 Subm.
Comoros		Art. 22, general Art. 22, Nos. 1, 26, 29, 99, 100, 105
Congo	General Report, para. 121 I B, No. 87 III	Art. 22, Nos. 29, 87, 149, 150, 152
Costa Rica	General Report, paras. 87, 96 I B, Nos. 87, 102, 122, 135, 138, 147, 148 III	Art. 22, general Art. 22, Nos. 1, 29, 81, 100, 102, 105, 111, 129, 131, 134, 135, 137, 144, 147, 150
Côte d'Ivoire	General Report, para. 96 I B, Nos. 29, 52, 87, 136	Art. 22, Nos. 3, 29, 87, 111, 144
Cuba	I B, Nos. 29, 87, 103, 111, 122	Art. 22, Nos. 1, 110, 111, 152 Subm.
Cyprus	I B, No. 114	Art. 22, Nos. 97, 111, 142, 143, 152, 160 Subm.
Czech and Slovak Federal Republic	I A	

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Denmark	I B, Nos. 87, 102, 111, 122 II B, No. 16	Art. 22, Nos. 92, 102, 111, 126, 148 Subm. Art. 35, Nos. 9, 92
Djibouti	General Report, paras. 87, 96, 125 III	Art. 22, general Art. 22, Nos. 1, 9, 16, 18, 19, 22, 24, 29, 37, 38, 53, 63, 69, 81, 87, 88, 94, 95, 96, 105, 106, 120, 122, 125
Dominica	General Report, paras. 87, 96 I A and B, No. 138	Art. 22, Nos. 16, 26, 29, 81, 87, 100, 105, 111, 138 Subm.
Dominican Republic	I B, Nos. 10, 87, 111	Art. 22, Nos. 26, 29, 87, 111
Ecuador	General Report, paras. 87, 96 I B, Nos. 87, 103, 111, 121, 122, 131 III	Art. 22, general Art. 22, Nos. 87, 101, 110, 111, 119, 121, 122, 128, 130, 131, 142, 144, 152, 153, 159
Egypt	I B, Nos. 9, 62, 87, 95, 105, 106, 111	Art. 22, Nos. 29, 62, 63, 68, 92, 94, 105, 106, 111, 134, 137, 148, 159 Subm.
El Salvador	General Report, para. 87 I B, No. 105 III	Art. 22, general Art. 22, Nos. 105, 107, 159, 160
Equatorial Guinea		Art. 22, general Art. 22, Nos. 30, 100
Ethiopia	General Report, para. 96 I B, No. 87	Art. 22, Nos. 14, 87, 111
Fiji	III	
Finland	I B, Nos. 87, 120, 122, 162	Art. 22, Nos. 9, 47, 53, 88, 98, 111, 119, 133, 134, 144, 152, 160, 161, 162
France	General Report, paras. 87, 96 I A and B, Nos. 29, 35, 36, 37, 38, 81, 118, 122, 129 II B, Nos. 3, 19, 29, 35, 36, 37, 38, 63, 87, 98, 111, 134	Art. 22, general Art. 22, Nos. 13, 27, 29, 35, 36, 37, 38, 53, 92, 96, 97, 102, 105, 111, 118, 125, 126, 129, 136, 144, 146, 147, 148, 152, 156, 158 Subm. Art 35, general Art. 35, Nos. 8, 9, 13, 16, 22, 23, 29, 35, 36, 37, 38, 53, 58, 63, 68, 69, 73, 77, 78, 92, 100, 108, 111, 115, 120, 122, 126, 131, 142, 144, 146, 147, 149

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Gabon	I B, No. 87 III	Art. 22, Nos. 26, 87, 99, 111, 144, 154, 158
Germany	I B, Nos. 22, 87, 100, 102, 111, 122	Art. 22, Nos. 3, 26, 92, 100, 102, 111, 115, 118, 125, 126, 128, 129, 152 Subm.
Ghana	General Report, para. 87 I B, Nos. 87, 105, 111, 119	Art. 22, general Art. 22, Nos. 26, 29, 30, 59, 105, 111, 120, 148
Greece	I B, Nos. 29, 87, 98, 105, 111, 144	Art. 22, Nos. 9, 29, 81, 92, 100, 102, 105, 111, 126, 133, 136, 142 Subm.
Grenada	III	Art. 22, Nos. 26, 58, 99
Guatemala	I B, No. 87	Art. 22, Nos. 1, 11, 13, 30, 50, 59, 63, 64, 100, 103, 111, 117, 124, 141, 144, 161 Subm.
Guinea	I B, Nos. 26, 81, 99, 105, 111, 120, 134 III	Art. 22, general Art. 22, Nos. 3, 29, 87, 100, 111, 119, 122, 140, 142, 143, 152
Guinea-Bissau	General Report, paras. 87, 96 I A and B, Nos. 18, 98 III	Art. 22, general Art. 22, Nos. 19, 26, 29, 74, 81, 88, 91, 98, 100, 105, 111
Guyana	General Report, paras. 87, 96, 121 I B, Nos. 42, 87, 139 III	Art. 22, general Art. 22, Nos. 29, 81, 95, 97, 100, 111, 115, 129, 131, 136, 137 140, 144, 149, 151
Haiti	I A and B, Nos. 24, 25, 29, 42, 87 III	Art. 22, general Art. 22, Nos. 5, 100, 111
Honduras	I B, No. 87 III	Art. 22, No. 27
Hungary	I B, Nos. 26, 87, 99, 111, 122	Art. 22, Nos. 26, 87, 99, 111, 115, 140, 161, 166, 167 Subm.
Iceland		Art. 22, No. 98

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
India	General Report, para. 87 I B, Nos. 1, 5, 26, 29, 100, 107, 141, 144 III	Art. 22, general Art. 22, Nos. 26, 29, 100, 107, 111
Indonesia	I B, No. 98	Art. 22, Nos. 98, 144
Iran, Islamic Republic of	I B, Nos. 29, 111 III	Art. 22, Nos. 19, 29, 95, 100, 105, 122
Iraq	General Report, paras. 87, 96 I B, Nos. 1, 19, 30, 92, 95, 111, 118, 132	Art. 22, general Art. 22, Nos. 13, 14, 94, 106, 107, 111, 115, 118, 119, 120, 122, 131, 132, 135, 137, 146, 153 Subm.
Ireland	I B, Nos. 23, 105	Art. 22, Nos. 29, 53, 63, 87, 98, 144 Subm.
Israel	I B, No. 118	Art. 22, Nos. 91, 97, 100, 105, 118 Subm.
Italy	I B, Nos. 32, 92, 97, 103, 111, 134, 143, 146 III	Art. 22, Nos. 26, 29, 68, 99, 102, 105, 111, 119, 134, 143, 148, 150, 160
Jamaica	General Report, paras. 87, 96, 121 I B, Nos. 8, 81, 100 III	Art. 22, general Art. 22, Nos. 81, 100, 111, 122
Japan	I B, Nos. 81, 87, 100	
Jordan	General Report, paras. 87, 96 I A and B, Nos. 119, 120	Art. 22, general Art. 22, Nos. 29, 106, 100, 105, 111, 118, 122, 135 Subm.
Kenya	General Report, para. 121 I B, No. 17 III	Art. 22, Nos. 144, 149
Kuwait	General Report, para. 96 I B, Nos. 1, 30, 87	Art. 22, Nos. 29, 81, 87, 89, 105, 111, 119, 136 Subm.

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Lao People's Democratic Republic	General Report, paras. 87, 96 I A III	Art. 22, Nos. 13, 29
Lebanon	General Report, paras. 87, 96 I A III	Art. 22, Nos. 1, 17, 19, 30, 52, 59, 77, 78, 81, 88, 89, 90, 95, 98, 100, 106, 111, 115, 120, 122, 127, 131
Lesotho	General Report, paras. 87, 96 I B, Nos. 11, 87 III	Art. 22, No. 29
Liberia	General Report, paras. 87, 96 I A and B, Nos. 22, 23, 29, 55, 58, 87, 92, 98, 105, 108, 112, 113, 114, 147	Art. 22, Nos. 29, 53, 105, 111, 147
libyan Arabe Jamahiriya	General Report, para. 125 I B, No. 105 III	Art. 22, Nos. 29, 88, 111, 122, 131
Lithuania		Art. 22, No. 1
Luxembourg	General Report, para. 96	Art. 22, Nos. 77, 78, 100, 102
Madagascar	General Report, para. 121 I B, Nos. 29, 87, 119, 120, 127 III	Art. 22, Nos. 13, 81, 87, 95, 100, 111, 118, 122, 129, 132
Malawi	General Report, paras. 87, 96 I B, Nos. 81, 129 III	Art. 22, general Art. 22, Nos. 19, 100, 111, 144, 149, 158, 159
Malaysia	I B, Nos. 11, 12	Art. 22, No. 29 Subm.
Mali	I B, Nos. 81, 87 III	Art. 22, general Art. 22, Nos. 26, 29, 100, 105, 111
Malta	I B, Nos. 87, 111	Art. 22, Nos. 1, 14, 62, 106, 111, 117, 124, 132, 141, 148, 159
Mauritius	I B, No. 105 III	Art. 22, Nos. 26, 81, 99, 138

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Mauritania	I B, Nos. 22, 29, 53, 81, 87, 94, 95, 111, 118	Art. 22, general Art. 22, Nos. 3, 13, 26, 29, 81, 111, 114, 122 Subm.
Mexico	I B, Nos. 9, 87	Art. 22, Nos. 87, 111, 131, 134, 152, 153, 167, 169
Mongolia	I B, No. 87 III	
Morocco	I B, Nos. 2, 11, 12, 26, 30, 52, 81, 99, 100, 122, 136	Art. 22, Nos. 30, 100, 106, 111, 129, 136, 146, 147 Subm.
Mozambique	III	Art. 22, Nos. 100, 111
Myanmar	I B, Nos. 17, 29, 52, 87	Art. 22, Nos. 26, 63,
Namibia		Subm.
Nepal	General Report, paras. 87, 96 III	Art. 22, general Art. 22, Nos. 111, 131
Netherlands	General Report, paras. 87, 96 I B, Nos. 62, 87, 131 II B, Nos. 58, 81	Art. 22, Nos. 9, 102, 111, 133, 142, 145, 156 Subm. Art. 35, general Art. 35, Nos. 14, 69, 74, 87, 101, 105, 106, 121, 122, 131, 137, 140, 141, 142, 144, 146
New Zealand	I B, Nos. 17, 26, 99, 111, 122	Art. 22, Nos. 47, 111, 133, 134, 144 Art. 35, No. 111
Nicaragua	I B, Nos. 1, 3, 30, 87, 105, 119, 139, 144	Art. 22, general Art. 22, Nos. 9, 13, 29, 63, 87, 100, 105, 110, 111, 122, 136, 142, 146
Niger	General Report, para. 96	Art. 22, Nos. 29, 119, 158 Subm.
Nigeria	I B, Nos. 87, 105, 123	Art. 22, Nos. 26, 100, 105 Subm.

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Norway	I B, Nos. 22, 87	Art. 22, Nos. 9, 69, 97, 133, 134, 143, 144, 152, 160, 169
Pakistan	General Report, para. 121 I B, Nos. 29, 59, 81, 87, 96, 111 III	Art. 22, Nos. 29, 32, 107, 111
Panama	I B, Nos. 3, 8, 63, 68, 87 III	Art. 22, Nos. 3, 32, 81, 87, 92, 96, 100, 111
Papua New Guinea	General Report, paras. 121, 125 I B, Nos. 42, 98, 122 III	Art. 22, Nos. 8, 29, 105, 122
Paraguay	General Report, paras. 87, 96, 121, 125 I B, Nos. 1, 29, 30, 81, 87, 98, 107, 111, 115, 120, 122 III	Art. 22, general Art. 22, Nos. 29, 107, 119, 122
Peru	I B, Nos. 1, 29, 44, 68, 122 III	Art. 22, Nos. 20, 29, 53, 67, 77, 78, 81, 102, 156, 159
Philippines	I B, Nos. 23, 59, 87, 105	Art. 22, Nos. 59, 87, 99, 105, 110, 111, 141 Subm.
Poland	I B, Nos. 87, 111	Art. 22, Nos. 9, 87, 91, 92, 103, 111, 149
Portugal	I B, Nos. 8, 87, 97, 131, 151	Art. 22, Nos. 87, 92, 100, 111, 131, 142, 143, 144, 146 Subm.
Qatar		Art. 22, general Art. 22, Nos. 81, 111 Subm.
Romania	I B, Nos. 11, 111	Art. 22, Nos. 9, 87, 131, 138,
Russian Federation	I B, Nos. 95, 111	Art. 22, general Art. 22, Nos. 92, 95, 111, 119, 122, 134, 142, 148, 159 Subm.

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Rwanda	I B, Nos. 11, 12, 26, 87, 111	Art. 22, general Art. 22, Nos. 26, 98, 111, 118 Subm.
Saint Lucia	General Report, paras. 87, 96, 121, 125 III	Art. 22, general Art. 22, Nos. 5, 19, 87, 94, 95, 97, 98, 100, 111
San Marino		Art. 22, Nos. 88, 140, 143, 156 Subm.
Sao Tome and Principe	General Report, paras. 87, 96 I B, Nos. 17, 18, 19	Art. 22, general Art. 22, Nos. 17, 19, 81, 100, 111 Subm.
Saudi Arabia	I B, Nos. 100, 111	Art. 22, general Art. 22, Nos. 29, 105, 111
Senegal	I B, Nos. 87, 105, 120, 121	Art. 22, Nos. 13, 19, 26, 29, 87, 100, 105, 111, 122, 125 Subm.
Seychelles	General Report, paras. 87, 96, 121, 125 I A and B, Nos. 8, 87 III	Art. 22, Nos. 5, 16, 26, 99, 105
Sierra Leone	General Report, paras. 121, 125 I B, Nos. 8, 29, 59, 81, 88, 105, 111, 125, 144 III	Art. 22, Nos. 26, 95, 98, 99, 100, 101, 111, 126
Singapore	I B, No. 5	
Solomon Islands	General Report, paras. 87, 96, 125 III	Art. 22, general Art. 22, Nos. 14, 16, 26, 29, 81, 95
Somalia	General Report, paras. 87, 96, 125 I A	Art. 22, No. 111
South Africa	I A and B, Nos. 19, 26	Art. 22, No. 26

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Spain	I B, Nos. 77, 78, 87, 102, 103, 111, 122, 131, 137, 140, 144, 150	Art. 22, Nos. 92, 96, 97, 102, 103, 111, 115, 120, 134, 142, 152, 160, 163 Subm.
Sri Lanka	I B, Nos. 29, 81, 96, 131	Art. 22, Nos. 10, 11, 29, 63, 106, 115, 131 Subm.
Sudan	I B, Nos. 29, 105, 111	Art. 22, general Art. 22, Nos. 26, 100, 105, 111 Subm.
Suriname	III	Art. 22, Nos. 29, 105, 112, 122, 144
Swaziland	I B, No. 87	Art. 22, general Art. 22, Nos. 29, 87, 100, 111, 131 Subm.
Sweden	I B, Nos. 98, 111, 122, 135	Art. 22, Nos. 29, 87, 98, 137, 100, 111, 115, 128, 130, 144, 152, 157, 160
Switzerland	I B, Nos. 102, 111, 120, 128	Art. 22, Nos. 29, 87, 102, 111, 160, 163
Syrian Arab Republic	I B, Nos. 1, 30, 87, 105, 106 III	Art. 22, Nos. 29, 63, 111, 131, 139
Tanzania, United Republic of	I B, Nos. 29, 105, 135 III	Art. 22, Nos. 29, 58, 105, 131, 134, 137, 144
Thailand	General Report, para. 87 I B, No. 29 III	Art. 22, general Art. 22, No. 122
Togo	I B, Nos. 87, 144	Art. 22, Nos. 26, 87, 111, 143, 144
Trinidad and Tobago	General Report, paras. 87, 96 I B, No. 87 III	Art. 22, general Art. 22, Nos. 29, 111
Tunisia	I B, Nos. 8, 87, 122	Art. 22, Nos. 8, 26, 91, 111, 142, 150, 159
Turkey	I B, Nos. 26, 98, 99, 111, 119	Art. 22, Nos. 26, 58, 102, 111

Country	Observations made by the Committee (published in the present Report)[1]	Direct requests addressed by the Committee to the Governments (not reproduced in the present Report)[2]
Uganda	III	Art. 22, Nos. 26, 143
Ukraine	I B, Nos. 87, 111	Art. 22, Nos. 111, 122, 142
United arab Emirates		Art. 22, No. 29 Subm.
United kingdom	I B, Nos. 29, 68, 87, 97, 100, 122, 144 II B, No. 17	Art. 22, Nos. 81, 92, 102, 105, 126, 133 Subm. Art. 35, Nos. 5, 10, 26, 29, 63, 81, 92, 87, 99, 122, 142, 160
Uruguay	I B, Nos. 9, 63, 81, 121, 129, 131, 149	Art. 22, Nos. 22, 32, 73, 97, 100, 105, 110, 111, 113, 121, 130, 133, 134, 139, 148, 149, 150, 151, 153, 154, 155, 156, 159, 161 Subm.
Venezuela	General Report, paras. 87, 96 I B, Nos. 3, 122, 150, 153, 155 III	Art. 22, general Art. 22, Nos. 3, 13, 27, 102, 117, 118, 122, 128 139, 138, 142, 149, 153, 155
Yemen	General Report, paras. 87, 93, 96, 125 I A and B, Nos. 81, 87, 98	Art. 22, general Art. 22, Nos. 19, 29, 95, 100, 111, 131, 135 Subm.
Yugoslavia	I A	
Zaire	General Report, paras. 121, 125 I B, Nos. 29, 81 III	Art. 22, Nos. 26, 29, 100, 150, 158
Zambia	I B, Nos. 29, 111, 122	Art. 22, Nos. 29, 97, 100, 111, 131, 144, 151, 154, 158, 159 Subm.
Zimbabwe	General Report, paras. 87, 96	Art. 22, general Art. 22, No. 144 Subm.

PART ONE

GENERAL REPORT

GENERAL REPORT

I. INTRODUCTION

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organisation on the action taken with regard to Conventions and Recommendations, held its 63nd Session in Geneva from 11 to 24 March 1993. The Committee has the honour to present its report to the Governing Body.

2. The Committee noted that Mr. A. GUBINSKI was no longer one of its members. It paid tribute to the contribution that he had made to the work of the Committee for over 30 years.

3. The Governing Body had appointed Mrs. E. LETOWSKA member of the Committee. The Committee was pleased to welcome her to its present session.

4. The present composition of the Committee is as follows:

Mr. Benjamin AARON (United States),
Professor Emeritus of Law and former Director of the Institute of Industrial Relations, University of California, Los Angeles; former President, National Academy of Arbitrators; former President, Industrial Relations Research Association; former member of the Arbitration Services Advisory Committee of the Federal Mediation and Conciliation Service; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implement Workers' Union; former President of the International Society of Labour Law and Social Security;

Mr. Roberto AGO (Italy),
Judge of the International Court of Justice; Emeritus Professor of International Law, Faculty of Law, University of Rome; former member and President of the United Nations International Law Commission; President of the Vienna Conference for the Codification of the Law on Treaties (1968-69); former Chairman of the ILO Governing Body; Chairman of the Committee on Freedom of Association of the ILO Governing Body; President of the Institute of International Law; President of the Curatorium of the Academy of International Law at The Hague; member of the Permanent Court of Arbitration;

Mrs. Badria AL-AWADHI (Kuwait),
Barrister-at-Law; former Dean of the Faculty of Law, Kuwait; former Professor of Public International Law, Kuwait University;

member of the International Commission of Jurists; Deputy Executive Secretary of the Regional Organization for the Protection of the Marine Environment in the Arabian Gulf; Vice-President of the International Federation of Women Lawyers; member of the International Law Association; member of the International Council of Environmental Law; member of the Arab Court of Arbitration; Vice-President of the Freedom of Association Committee of the Arab Labour Organization;

Mr. Prafullachandra Natvarlal BHAGWATI (India),
Former Chief Justice of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; former Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association; member of the Editorial Committee of Reports of the Commonwealth; Chairman of the Editorial Committee for the preparation of the Encyclopaedia of Social Legislation in India; Chairman of the National Committee for Social and Economic Welfare of the Government of India; Ombudsman for the national newspaper Times of India; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva; President of El Taller; Chairman of the Panel for Social Audit of Telecom and Postal Services in India;

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados),
High Commissioner; former Chief Justice of Barbados; former Chairman, Commonwealth Caribbean Council of Legal Education; former Chairman, Inter-American Juridical Committee; former Judge of the High Court of Jamaica;

Mr. Semion A. IVANOV (Russian Federation),
Principal researcher at the Institute of State and Law of the Academy of Sciences of the Russian Federation; Doctor of Legal Science, Professor of Labour Law, Scientist Emeritus of the Russian Federation; Professor at the Academy of Labour and Social Relations (Moscow); Vice-President of the International Society of Labour Law and Social Security; President of the National Section of Labour Law and Social Security; former Professor of the International Faculty for the Teaching of Comparative Law (Strasbourg); member of the USSR Government delegation to the International Labour Conference from 1956 to 1976;

Mrs. Ewa LETOWSKA (Poland),
Professor of Civil Law (Institute of Legal Studies of the Polish Academy of Sciences); former parliamentary ombudsman; former member of the Legislative Council to the Council of Ministers; former member of the Commission for the Reform of Civil Law; member of the Helsinki Committee;

Bernd Baron von MAYDELL (Federal Republic of Germany),
Professor of Civil Law, Labour Law and Social Security Law; Director of the Max Planck Institute for Foreign and International Social Law (Munich); Vice-President of the European Institute for Social Security (Leuven); Treasurer of the International Society of Labour Law and Social Security;

Mr. Kéba MBAYE (Senegal),
Former Vice-President of the International Court of Justice; First Honorary President of the Supreme Court of Senegal; member of the Institute of International Law; former President of the International Commission of Jurists; former President of the United Nations Commission on Human Rights; member of the Royal Academy of Overseas Science of Belgium;

Mr. Cassio MESQUITA BARROS (Brazil),
Independent lawyer specializing in labour relations (Sao Paulo); Associate Professor of Labour Law at the Law School of the public University of Sao Paolo and the Law School of the private Pontifical Catholic University of Sao Paulo; member of the Federal Council for Education: Academic Adviser, San Martin de Porres University (Lima); winner of the medal for "Honra ao Merito de Trabalho" awarded by Decree of the President of the Republic for a major contribution to the development of labour law; winner of the medal for "Honra ao Merito Judiciario do Trabalho" awarded by the Higher Labour Tribunal for his important contribution to the administration of justice; Honorary President of the "Asociación Iberoamericana de Derecho del Trabajo y Seguridad Social" (Buenos Aires, Argentina); Honorary President of the "Academia Nacional do Direito do Trabalho" (Rio de Janeiro) (composed of Brazilian experts in labour law); member of the International Academy of Jurisprudence and Comparative Law (Rio de Janeiro) and the International Academy of Law and Economy (Sao Paulo);

Mr. Benjamin Obi NWABUEZE (Nigeria),
LLD (London); Hon. LLD (University of Nigeria); Senior Advocate of Nigeria; 1980 Laureate of the Nigerian National Merit Award; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member, Governing Council, Nigerian Institute of International Affairs; former member, Governing Council, Nigerian Institute of Advanced Legal Studies; member, Council of Legal Education; Fellow, Nigerian Institute of Advanced Legal Studies;

Mr. Edilbert RAZAFINDRALAMBO (Madagascar),
Honorary First President of the Supreme Court of Madagascar; former President of the High Court of Justice; former Professor of Law at the University of Madagascar; former Arbitrator of the ICSID and of the International Civil Aviation Organization; judge of the Administrative Tribunal of the ILO; former member of the International Council for Commercial Arbitration; former

member of the International Court of Arbitration of the International Chamber of Commerce; Alternate Chairman of the Staff Committee of Appeals, African Development Bank; member of the United Nations International Law Commission;

Mr. José María RUDA (Argentina),
Former President of the International Court of Justice; President of the United States-Iran Claims Tribunal; member of the Institute of International Law; former representative of Argentina to the United Nations; former Under-Secretary of Foreign Affairs; former member and President of the United Nations International Law Commission; member of the Permanent Court of Arbitration;

Mr. Antti Johannes SUVIRANTA (Finland),
President of the Supreme Administrative Court of Finland; former President of the Finnish Labour Court; former Professor of Labour Law at Helsinki University; former member of the Executive Committee of the International Society for Labour Law and Social Security; member of the Finnish Academy of Science and Letters; member of the Council of Administration and former President of the International Association of Supreme Administrative Jurisdictions; member of the European Commission for Democracy through Law; Chairman of the Finnish section of the International Association of Legal Sciences;

Mr. Boon Chiang TAN (Singapore),
BBM, PPA, LLB, (London) Dip. Arts, Barrister-at-Law and Solicitor, Singapore; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former President, Copyright Tribunal; former Chairman, Income Tax Board of Review; Valuation Review Board; Hotels Licensing Board; Tenants' Compensation Board; former Vice-President (Asia) of the International Society of Labour Law and Social Security;

Mr. Fernando URIBE RESTREPO (Colombia),
Barrister-at-law; former judge of the Court of Justice of the Cartagena Accord; former President of the Supreme Court of Colombia; former Professor of International Labour Law at the National University of Colombia; former Professor of Labour Law, Universities Externado de Colombia and Pontificia Javeriana; former Professor of Philosophy of Law at the Bolivarian University of Medellín;

Mr. Jean Maurice VERDIER (France),
Professor of Labour Law at the University of Paris X; Honorary President of the University of Paris X; Honorary Dean of the Faculty of Law and Economics; Director of the Institute for Research on Undertakings and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); Director of the Institute of Labour Social Sciences, University of Paris I; Vice-President of Libre

Justice, the French section of the International Commission of Jurists; former Professor of the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68); former President and Honorary President of the International Society of Labour Law and Social Security; former President and Honorary President of the French Association of Labour and Social Security Law;

Mr. Budislav VUKAS (Croatia),
Professor of Public International Law at the University of Zagreb, Faculty of Law; associate member of the Institute of International Law; former member of the Permanent Court of Arbitration;

Sir John WOOD (United Kingdom),
CBE, LLM; Barrister; Edward Bramley Professor of Law at the University of Sheffield; Chairman of the Central Arbitration Committee;

Mr. Toshio YAMAGUCHI (Japan),
Honorary Professor of Law at the University of Tokyo, Professor of Law at the University of Chiba; Member of the Japanese Central Committee of Labour Relations; former Member of the Executive Committee of the International Society of Labour Law and Social Security; full member of the International Academy of Comparative Law.

5. The Committee noted with regret that Mr. K. MBAYE and Mr. B.O. NWABUEZE were not able to participate in its work.

6. The Committee elected Mr. J.M. RUDA as Chairman and Mr. E. RAZAFINDRALAMBO as Reporter of the Committee.

7. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee was called upon to examine:

(i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspection;

(ii) the information and reports concerning Conventions and Recommendations, communicated by Members in accordance with article 19 of the Constitution;

(iii) the information and reports on measures taken by Members in accordance with article 35 of the Constitution.

8. The Committee, after an examination and evaluation of the above-mentioned reports and information, drew up its present report, consisting essentially of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 81 to 111 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 81 to 111 below), and on the obligation to submit

instruments to the competent authorities (see section III and paragraphs 112 to 122 below). Part Three, which is published in a separate volume (Report III (Part 4B)) reviews the reports supplied by governments under article 19 of the Constitution on the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981 (see paragraphs 123 to 127 below).

9. In carrying out its task, which consists of indicating the extent to which the situation in each State appears to be in conformity with the terms of the Conventions and the obligations undertaken by that State by virtue of the ILO Constitution, the Committee has followed the principles of independence, objectivity and impartiality set forth in its previous reports. It has continued to apply the working methods recalled in its 1987 report. One such method is the spirit of mutual respect, cooperation and responsibility which has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards, whose proceedings the Committee takes fully into consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standard-setting obligations.

10. In this context, the Committee notes with interest the decision of the Conference Committee on the Application of Standards to request the Director-General to invite the Chairman of the 63rd Session of the Committee of Experts on the Application of Conventions and Recommendations to attend as an observer the general discussion of the Committee on the Application of Standards of the 80th Session of the International Labour Conference (June 1993). The Committee accepted the invitation and designated its Chairman to represent it in the Committee on the Application of Standards. The Committee hopes this initiative will contribute to the further strengthening of dialogue between the two Committees.

11. The Committee notes the views expressed during the examination of the general part of its report by the Committee on the Application of Standards of the International Labour Conference, at its 79th Session (1992). It notes that the question of establishing a tribunal by virtue of article 37, paragraph 2, of the Constitution of the ILO will be examined by the Office in a study, which will be submitted at the appropriate time to the competent bodies. It notes the continuing reflections of the Conference Committee on the development of the international environment in which the ILO's standard-setting system operates and on the conditions affecting the implementation of international labour standards in developing countries and industrialized countries, and in particular countries which are engaged in a process of transition to a market economy. It shares the concerns expressed by the Conference Committee regarding the need to promote ILO principles and standards and welcomes the greater universality of international labour standards which may result from the admission of new Members.

12. The Committee undertook a preliminary examination of the nature of its contribution to the commemoration of the 75th anniversary of the founding of the ILO and the 50th anniversary of the Declaration of Philadelphia of 1944. It decided to include in its

next report its reflections on the present ILO system of standard setting and supervision and its future in the twenty-first century. It decided to appoint a working party for this purpose.

II. GENERAL

Membership of the Organisation

13. Since the Committee's last session the number of member States of the ILO has risen from 153 to 162. Viet Nam was readmitted on 20 May 1992. Kyrgyzstan (31 March 1992), Azerbaijan (19 May 1992), Slovenia (29 May 1992), Moldavia (8 June 1992), Croatia (30 June 1992), Uzbekistan (13 July 1992), Armenia (26 November 1992), the Slovak Republic (22 January 1993) and the Czech Republic (5 February 1993) were admitted to the ILO (the Czech and Slovak Federal Republic ceased to exist on 31 December 1992).

New standards adopted by the Conference in 1992

14. The Committee notes that at its 79th Session (June 1992), the International Labour Conference adopted the Protection of Workers' Claims (Employer's Insolvency) Convention (No. 173) and Recommendation (No. 180), 1992.

15. The Chemicals Convention, 1990 (No. 170), will come into force on 4 November 1993.

Ratifications and denunciations

16. In 1992, 151 ratifications by 31 member States were registered. The total number of ratifications at 31 December 1992 was 5,719. Between the beginning of 1993 and 24 March 1993, 26 ratifications by 11 member States have been registered.

17. The total number of denunciations not accompanied by the ratification of a revised Convention was 73 at 24 March 1993.

18. Since the Committee's last session, the Director-General has registered five denunciations not accompanied by the ratification of a Convention.

19. The Night Work (Women) Convention, 1919 (No. 4), was denounced by Argentina on 4 March 1992. The Government stated that the limitation on the hours worked at night by women was an additional obstacle to the promotion of employment and their effective integration into the labour market, in contrast with the Government's commitment to promote the broadest possible access of workers to the formal sector of the economy.

20. The other denunciations concerned the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96).

21. The Government of Sweden stated, in a communication dated 4 June 1992, that the abuses noted at the time of the adoption of the Convention should no longer occur, since the existence of powerful trade union organizations and a very complete labour and social

security legislation were sufficient to prevent them. The monopoly of public employment services had been increasingly severely criticized, while enterprises whose activity was related to placement services were being increasingly successful, based on the fact that their activity was considered to be beneficial and desirable both for employees and for enterprises and their clients. The Government considered that the effect of competition in the field of job placement should have a salutary effect on the activities of the public employment services and increase the efficiency of the labour market. For that purpose, the Government had decided to set up a commission which, after it had heard the opinions of the parties on the labour market, was due to present proposals to dismantle the public monopoly, while at the same time ensuring that public employment services continued to provide good quality service free of charge in all the sectors of the labour market. The Government of Finland, in a communication dated 30 June 1992, stated that it was currently preparing draft legislation to reorganize the employment services which would liberalize the activities of fee-charging employment agencies to such an extent that the denunciation of the Convention had become inevitable. The Government of Germany stated, in a communication dated 10 July 1992, that it wished to have greater latitude to regulate employment services without awaiting the next period for the denunciation of the instrument.

22. The Government of Côte d'Ivoire, in a communication dated 15 July 1992, stated that, within the context of the liberalization of the labour market, it had adopted provisions which authorized and regulated the activities of fee-paying employment agencies, which were contrary to the provisions of Part II of the Convention. Côte d'Ivoire therefore denounced the Convention and notified its intention of ratifying the instrument once again and accepting the provisions of Part III. This ratification was registered on 28 July 1992. The Committee notes that Côte d'Ivoire remains bound by the obligations of the Convention.

Constitutional and other procedures

23. The Committee was informed of the following decisions taken by the Governing Body in cases involving recourse to the constitutional procedures of complaint and representation and other procedures.

A. Complaints submitted under article 26 of the ILO Constitution

Complaint against Sweden

24. Consultations are being pursued concerning the complaint submitted by the Employers' delegate of Sweden to the 78th (1991) Session of the International Labour Conference concerning the observance by Sweden of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize

and Collective Bargaining Convention, 1949 (No. 98), and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

Complaint against Côte d'Ivoire

25. At the 79th (1992) Session of the International Labour Conference, the Workers' delegates presented a complaint concerning the observance by Côte d'Ivoire of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). The Committee on Freedom of Association, which had before it a complaint under the special procedure concerning trade union rights (Case No. 1594), submitted a report to the Governing Body at its 254th (November 1992) Session on the case and on the complaint under article 26 of the Constitution. The Committee on Freedom of Association proposed to examine the question of the setting up of a commission of inquiry during its next examination of the case, in the light of the observations which the Government may send it.

B. Representations submitted under article 24 of the ILO Constitution

Representation concerning the Socialist Federal Republic of Yugoslavia

26. At its 250th (May-June 1991) Session, the Governing Body declared receivable a representation submitted by the International Confederation of Free Trade Unions (ICFTU) alleging non-observance by the SFR of Yugoslavia of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee established to examine the representation submitted its report to the 253rd (May-June 1992) Session of the Governing Body. The Governing Body noted that, while awaiting a decision by the United Nations, it was not possible to identify the Government concerned for the application of article 7 of the Standing Orders governing the procedure for the examination of representations submitted under articles 24 and 25 of the Constitution of the ILO. It was not therefore in a position to set a date for the examination of the report.

Representation concerning Venezuela

27. At its 251st (November 1991) Session, the Governing Body decided that the representation made by the International Organization of Employers (IOE) and the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS), under article 24 of the ILO Constitution, alleging non-observance by Venezuela of international labour Conventions Nos. 4, 81, 87, 88, 95, 98, 100, 111, 143, 144 and 158, was receivable. It set up a tripartite committee composed of three of its members to examine the questions relating to the application of Conventions Nos. 4, 81, 88, 95, 100, 111, 143, 144 and 158. It referred to the Committee on Freedom of Association the aspects of the representation concerning the observance of Conventions Nos. 87 and 98. The tripartite committee plans to submit its report

at the Governing Body's session in May. During its February 1993 session, the Committee on Freedom of Association proposed to examine the substance of the matters relating to the application of Conventions Nos. 87 and 98 at its next session.

Representation concerning Myanmar

28. At its 255th (March 1993) Session, the Governing Body declared receivable a representation made by the International Confederation of Free Trade Unions (ICFTU) alleging non-observance by Myanmar of the Forced Labour Convention, 1930 (No. 29). The Governing Body set up a committee to examine the representation.

Representation concerning Sweden

29. At its 255th (March 1993) Session, the Governing Body declared receivable a representation made by the Swedish Trade Union Confederation (LO), the Swedish Confederation of Professional Employees (TCO) and the International Confederation of Free Trade Unions (ICFTU), alleging non-observance by Sweden of the Employment Injury Benefits Convention, 1964 (No. 121). The Governing Body set up a committee to examine the representation.

C. Special procedures concerning freedom of association

30. At each of its last three meetings (May 1992, November 1992 and February 1993), the Committee on Freedom of Association has had before it an average of 105 cases concerning nearly 50 countries from all parts of the world, in which it presented interim or final conclusions, or cases of which the examination has been adjourned pending the arrival of information from governments (283rd and 286th Reports). Some of these cases have been before the Committee on two occasions. Moreover, since March 1992, more than 75 new cases have been submitted to the Office.

31. The Committee of Experts notes that the Governing Body Committee on Freedom of Association has recommended that the present Committee's attention be drawn to certain aspects of the conclusions adopted in a number of the cases it examined. These cases included those concerning Sudan (Case No. 1508), Turkey (Case No. 1583), Greece (Cases Nos. 1584 and 1632), Honduras (Case No. 1568), Philippines (Case No. 1610) and United Kingdom (Isle of Man) (Case No. 1633).

32. At its 253rd (May-June 1992) Session, the Governing Body noted the report of the Fact-Finding and Conciliation Commission on Freedom of Association appointed to examine the complaint of infringements of trade union rights by South Africa presented by the Congress of South African Trade Unions (COSATU) in May 1988. At the Governing Body's request, the Director-General transmitted the report to the United Nations Economic and Social Council (ECOSOC). At its July 1992 Session, the ECOSOC unanimously adopted a resolution (No. 1992/12) on "Allegations regarding infringements of trade union rights", in which it noted with satisfaction the findings, conclusions and recommendations of the report. ECOSOC requested the

Secretary-General of the United Nations to invite the Government to report, no later than 31 December 1992, on the measures which it has taken to give effect to the recommendations contained in the report, and thereafter at yearly intervals until ECOSOC is satisfied that they have been implemented. It also requested that these reports on the measures taken to give effect to the Fact-Finding and Conciliation Commission's conclusions and recommendations be submitted to the Director-General of the ILO, who should provide ECOSOC with any opinions and observations that he deemed useful concerning these reports. ECOSOC also invited the ILO to comply with the request of the Government to provide technical assistance and advice in respect of the recasting of the labour laws in South Africa, and to inform it of action taken in this connection.

Functions in regard to other international and regional instruments

A. International Covenant on Economic, Social and Cultural Rights

33. In accordance with the procedure approved by the Governing Body at its 236th (May 1987) Session, by a communication dated 15 November 1992, the International Labour Office conveyed to the Secretary-General of the United Nations, for transmission to the Committee on Economic, Social and Cultural Rights, information concerning the situation in the States whose reports were communicated to the Office by the United Nations. Eight of these reports concerned the implementation of articles 6 to 9 of the Covenant, which deal with the right to work, the right to just and favourable conditions of work, freedom of association and the right to social security, and five reports concerned article 10 of the Covenant, which deals with the protection of maternity and the protection of children and young persons in the context of employment and work. A representative of the Standards Department took part in the discussion of these reports by the UN Committee on Economic, Social and Cultural Rights.

B. United Nations Convention on the Elimination of All Forms of Discrimination Against Women

34. In conformity with Article 22 of this Convention, the ILO submitted to the Twelfth Session (January-February 1993) of the Committee for the Elimination of Discrimination Against Women a report on the application of the Convention in the areas which are within the scope of the ILO's activities.

C. United Nations Convention on the Rights of the Child

35. The ILO was represented at the Second and Third Sessions of the Committee on the Rights of the Child (Geneva, September-October 1992; January 1993). The above Committee examined the question of

its relations with the specialized agencies. From its adoption in 1989 to December 1992, the Convention has been ratified by 126 States.

D. European Code of Social Security and Protocol thereto

36. In accordance with the established supervisory procedure, 14 reports on the European Code of Social Security and the Protocol thereto, submitted by the States which have ratified these instruments, were sent to the Office by the Secretary-General of the Council of Europe. After examining all these reports, the Committee was able to observe that the great majority of the States parties to the Code and the Protocol continue to apply them in full or nearly in full. At the sitting in which the Committee examined the reports on the European Code of Social Security and the Protocol thereto, the Council of Europe was represented by Mr. S.G. Nagel, Principal Administrator of the Social Security Division. The conclusions of the Committee regarding these reports will be sent to the Council of Europe. The Committee also noted that a representative of the ILO participated as technical adviser in the meeting of the Steering Committee for Social Security of the Council of Europe, held in York (United Kingdom) in October 1992. As in previous years, the Steering Committee approved the conclusions of the present Committee.

37. The Committee was informed that the European Code of Social Security was ratified by Cyprus on 15 April 1992.

E. European Social Charter and Additional Protocol

38. In the context of collaboration with the Council of Europe, an ILO representative attended, in an advisory capacity and in accordance with article 26 of the European Social Charter, the 110th, 111th and 113th Sessions of the Committee of Independent Experts set up to supervise the application of the Charter, held in Strasbourg in 1992. Furthermore, a representative of the International Labour Office participated in the meetings of the Committee for the European Social Charter. The work of that Committee is intended to improve the supervisory procedures and contents of the Charter.

39. The Additional Protocol to the European Social Charter was ratified on 5 August 1992 by the Netherlands. It came into force on 4 September 1992. The Protocol to amend the Charter, which was adopted in 1991, has been ratified by Norway, Portugal and Sweden.

40. The Committee welcomes the excellent collaboration between the International Labour Organisation and the Council of Europe in the activities relating to the Social Charter.

Collaboration with other international organizations

A. Cooperation in the field of standards with the United Nations and specialized agencies

41. In the context of the collaboration established with other international organizations on questions concerning the supervision of the application of international instruments relating to subjects of common interest, copies of the reports received under article 22 of the Constitution were forwarded to the United Nations and other specialized agencies and intergovernmental organizations with which the ILO has entered into special arrangements for this purpose.

42. Thus, in accordance with established practice, copies of the reports received from governments on the Indigenous and Tribal Populations Convention, 1957 (No. 107), were forwarded for comment to the United Nations, the United Nations Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO); copies of these reports were also sent to the Inter-American Indian Institute of the Organization of American States. The WHO also received a copy of one report on the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Furthermore, copies of the reports received on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), were forwarded for comments to the United Nations, the FAO and UNESCO. Copies of reports on the Rural Workers' Organizations Convention, 1975 (No. 141), were communicated to the FAO, UNESCO and the United Nations. Copies of reports on the Human Resources Development Convention, 1975 (No. 142), were communicated to UNESCO. Copies of the reports received concerning the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), were forwarded to the WHO, UNESCO and the United Nations. Copies of the reports received on the Nursing Personnel Convention, 1977 (No. 149), were also communicated to the WHO. Finally, copies of reports on the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), and on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), were sent to the International Maritime Organization (IMO).

43. Representatives of these Organizations were also invited to attend the sittings of the Committee of Experts at which the Conventions in question were discussed.

B. Relations between the ILO and the European Community

44. The Director-General informed the Governing Body at its 254th (November 1992) Session that on 26 July 1991 the Commission of the European Communities had requested an advisory opinion from the Court of Justice of the European Communities concerning the competence of the European Economic Community to "conclude" (that is, in the last resort, to ratify) the ILO's Chemicals Convention, 1990 (No. 170). The Committee notes that, in the opinion handed down on 19 March 1993, the Court considered that the competence to "conclude" ILO Convention No. 170 belongs at the same time to the Member States (of the

Community) and to the Community itself. It recalls the obligation of close cooperation between the Community and the Member States in the process of negotiating, concluding and putting into effect commitments which are assumed, which derives from the requirement for the unified international representation of the Community. This cooperation is considered by the Court to be particularly necessary in this respect since the Community cannot, under international law as it stands at present, become a party itself to an ILO Convention and has to do so through its Members. The Court considers that it is for Community institutions and Member States to take all the necessary measures to ensure the highest degree of cooperation, both as regards the submission to the competent authority and the ratification of Convention No. 170, and in implementing the commitments deriving from the Convention.

45. In the meantime, unofficial consultations have been embarked upon by the ILO on a tripartite basis with the representatives of the Commission. Without prejudice to the juridical questions still pending before the Court of Justice of the European Communities, these consultations were intended to examine the practical implications of the growing role that the Community has been called upon to play in the formulation of international labour standards, and particularly in Conference discussions. The ILO's social partners received the support of the social partners of the Community. It is planned to pursue these consultations once the above advisory opinion has been issued.

Matters relating to human rights

46. The Committee recalls that international labour standards embody the human rights that lie within the ILO's mandate. It is the Committee's practice to note developments in this area in its General Report.

47. The Committee expresses its support for the objectives of the World Conference on Human Rights, which will be held in Vienna from 14 to 25 June 1993, and notes with interest that the International Labour Office intends to take an active part in its deliberations. Noting that the principle objectives of the World Conference include examining the progress made in the achievement of human rights since the establishment of the United Nations, and the examination of the remaining obstacles to their full realization, the Committee hopes that the World Conference will take full account of the ILO's long experience in this connection. The Committee attaches particular importance to the exchange of information with the supervisory bodies of the United Nations system, and to the need to ensure that they exercise their functions with full respect for the work carried out by the other such bodies within their respective mandates.

48. The Committee recalls that 1993 has been proclaimed by the General Assembly of the United Nations as the International Year of the World's Indigenous People. It notes that the International Labour Office has been named co-coordinator of International Year together with the United Nations Centre for Human Rights. Recalling the

important role that the ILO has played in this area since its earliest days, the Committee notes that the ILO is increasing its work on this subject during the International Year. It notes, among other activities, the action taken by the Office to intensify its technical cooperation activities for the benefit of these peoples in various regions of the world, and to stimulate reflection among all parts of the United Nations system on the possibilities of coordinating their actions in this area. The Committee considers it particularly appropriate that it has been examining at its present session the first two reports submitted by member States which have ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

49. In this context, it welcomes the award of the Nobel Peace Prize to Ms. Rigoberta Menchu (Guatemala), and the recognition by means of this award of the importance of working for the protection of the rights of the more than 300 million persons belonging to indigenous and tribal peoples around the world.

Questions concerning the application of Conventions

Application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

50. This year, the Committee examined reports supplied by 108 States and non-metropolitan territories on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), one of the ILO Conventions having received the greatest number of ratifications. Following this examination, the Committee notes that, while some progress has been made over the last years, in particular regarding the elimination of discrimination based on political opinion, in the light of the democratization which has taken place in a number of countries, and regarding the promotion of equality between men and women, other forms of discrimination, in particular based on race, national origin and religion, have gained in importance, jeopardizing at times the progress made in other areas. In certain countries, these forms of discrimination can be seen in practice. In others, they are laid down in or made possible by the legislation or the legal system in force, which provide for or permit distinctions, exclusions or preferences as regards persons belonging to certain ethnic or religious groups.

51. The Committee wishes to express its concern over this situation. It calls on all governments and workers' and employers' organizations to take all the measures in their power to repeal any statutory or regulatory provision providing for or permitting discrimination incompatible with the Convention and to put an end to discriminatory practices contrary to the Convention. The Committee is of the opinion that major information and education action is vital for a better knowledge, understanding and application of the principles of tolerance and respect for the dignity of others, that are at the basis of the standards on non-discrimination and equality established by the Convention, and it hopes that member States as well as the ILO will be able to undertake such action.

Application of the Employment Policy Convention, 1964 (No. 122)

52. This year the Committee, as is its usual practice, examined a group of reports as representative as possible covering the period 1990-92. It welcomes the often full, precise and detailed information supplied in reply to the questions in the report form and its own requests, which evidences the special effort made by most governments in discharging their obligation to report on the application of this Convention. The Committee sees this as an important sign of their willingness to pursue and enrich the dialogue concerning employment policies which are implemented in an often difficult context. In this respect, it also appreciates the comments made by workers' and employers' organizations. The Committee, whose task in monitoring this Convention is particularly complex, has had the customary benefit of the technical expertise of the ILO's Employment and Development Department so as better to evaluate the effect given to the provisions of the Convention.

53. The change in the world economic situation - unfavourable for employment - which was already felt at the end of the previous reporting period has hardened and deepened. In the industrialized and in most developing countries, weak growth and, in many cases, the recession in economic activity mean not only that sufficient jobs are not being created but even that jobs are being destroyed, causing a new wave of unemployment. In addition, precarious employment, low productivity or informal employment has continued to rise whether in the form of temporary or involuntary part-time work in industrialized countries, or underemployment and informal sector employment in developing countries. In addition to those cyclical difficulties, many structural constraints are imposed by the need for internal and external adjustment, higher productivity and improved competitiveness in a fierce international environment: these also seem, for the moment, to be on the whole unfavourable to employment.

54. In the particular case of countries in transition to market economy systems, major economic restructuring and difficulties in creating efficient labour markets have led to imbalances in the numbers and types of employment offers and demands, the full extent of which is still difficult to assess. The Committee will continue to follow closely the application of the Convention in the countries in transition to a market economy. In order to minimize the effects of retrenchments, legislation is enacted which, on the whole, meets the objectives of the Convention. Some countries are still at the first stage of restructuring, while in others the employment policy measures implemented are already being revised in the light of the results they have been able to achieve. The Committee welcomes the ILO's determined efforts to help these countries to set up the institutions and mechanisms of the labour market. It also notes the technical cooperation programmes designed or implemented in several developing countries: it would emphasize the importance of these programmes in promoting the aims of the Convention.

55. Despite the very great diversity of national situations before it, the Committee draws from its examination of the policies in place to deal with this high and ever increasing level of unemployment

and underemployment some common lessons which confirm its concern regarding the effective pursuit of the objectives of the Convention. Certainly, the majority of governments have indicated that their economic policies aim at creating circumstances which allow the widest possible expansion of employment and pursuing, as an ultimate objective, the attainment of full employment. In the meantime, however, priority continues to be given to restrictive monetary and budgetary policies aimed at countering inflation and balancing public finances or to structural adjustment programmes as indispensable preconditions for a renewal of growth in production and employment. In these circumstances, unemployment tends to be regarded as the inevitable price to be paid for necessary adjustments, redeemable only by the implementation of active labour market policy measures, in particular placement and training, or to be dealt with by income guarantee measures. It is not for the Committee to comment on the choice and mix of economic policy measures used by the States party to the Convention. The Committee is well aware that developments in employment depend also on many and complex factors over which States have little direct control, given for instance the globalization of the economy and new forms of the international division of labour. But it must recall the obligation to formulate and apply "as a major goal" an active policy aimed at promoting full, productive and freely chosen employment, and to decide on and review, "within the framework of a coordinated economic and social policy", the measures to be adopted for attaining these objectives. To regard employment as simply one of many adjustment variables would decidedly be against the spirit of the Convention. Unless the very relevance of the Convention - and moreover the principles and objectives of the ILO which it enshrines - is to be put in question, this should not be forgotten.

56. The Committee has taken note of the resolution concerning employment promotion as an essential component of the general development, in which the International Labour Conference, at its 79th Session, reaffirmed its unfailing support for this Convention. For its part, the Committee emphasizes that, as has been stated at the Conference Committee, the pursuit of employment objectives is indispensable for the safeguard of the fundamental rights of workers as set out in international labour standards since, in addition to being wasteful for the economy, unemployment and underemployment have discriminatory side effects, involve degradation in employment and working conditions, threaten the free choice of employment and might affect the full exercise of freedom of association and the right to collective bargaining.

57. In individual comments, the Committee notes a lack of information, or inadequate mechanisms for consulting employers' or workers' organizations, or negative developments such as the diminution or disappearance of dialogue. There is yet another problem, to which the Committee must return: the participation in the dialogue of representatives of unorganized sections of the population (those in the rural and informal sectors, and the unemployed). The Committee would stress that, whilst the Convention refers simply to methods of application which are "appropriate under national conditions", it does lay down the fundamental obligation to consult

"representatives of the persons affected by the measures to be taken" in the wide sense of Article 3.

Application of standards in specific circumstances: Export processing enterprises and zones

58. The Committee has continued its examination of this question in comments concerning a number of countries (for example, Panama, Convention No. 3; Sri Lanka, Convention No. 81; Dominican Republic, Convention No. 87; Pakistan, Convention No. 87; Ecuador, Convention No. 142). It considers that it may be useful to recall in the general part of its Report the characteristics of export processing zones which may have an impact on the application of the Conventions ratified by countries which establish such zones:[1]

(a) the main features of these zones are the fiscal and financial advantages from which they benefit, the powers conferred on the authority responsible for the administration of the zones and, to a certain extent, the special legislation applying to labour performed in the zones;

(b) in an increasing number of cases these arrangements apply not only to geographical zones or areas, but also to particular enterprises;

(c) one of the goals common to these zones is to create jobs by attracting investments which would generate labour-intensive manufacturing or processing. These investments usually come from foreign sources, but may also be mixed or national;

(d) the investments are most often industrial, but may also concern agricultural activities and certain services. The goods produced are intended for export to foreign markets, either as finished products or as components of a larger production process carried on outside the country of the zone.

59. The Committee notes the adoption in several countries of legislation establishing export processing zones. One of these texts (Pakistan, Finance Act of 1992) provides for the whole of the labour legislation to be suspended, by government notification in the Official Journal. Certain such texts make no reference to social rights (Colombia), while others envisage the application of certain specific provisions on labour law (Peru, Venezuela). Finally, others provide that labour legislation applies in export processing zones, except for certain provisions which are specified in the text of the legislation (Ecuador, Russian Federation, Ukraine).

60. In each case, it is important to examine the extent to which the application of the Conventions ratified is ensured in practice in these zones. The Committee therefore once again requests governments to supply information on this subject in the reports provided under article 22 of the Constitution of the ILO. It also requests organizations of employers and workers to make comments on these matters, where appropriate.

---

[1] International Labour Conference, 69th Session, 1983 (Report III (Part 4A) 1983, para. 47).

61. Furthermore, the Committee note with interest a number of developments relating to this issue. In the first place, at its 254th (November 1992) Session, the Governing Body drew the Committee's attention to resolution No. 29, adopted by the Fourth Tripartite Technical Meeting for the Leather and Footwear Industry (February 1992), in which it is requested to continue the consideration of the question of the application of Conventions in export processing zones. Resolution No. 29 also calls for the full application of ILO standards in export processing zones to be ensured and for the promotion of the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. In the second place, the Meeting of Ministers from Central America, Panama and the Dominican Republic (Panama, March 1992) declared that exceptional provisions regarding labour should not be applicable to export processing zones. In the third place, in the Dominican Republic, an agreement which is currently being ratified, was concluded between the organizations of employers and workers concerned during a Round-Table on labour standards in export processing zones, governing the free exercise of the right of association in these zones.

III. TECHNICAL ASSISTANCE IN THE FIELD OF STANDARDS

A. Direct contacts and cooperation in the field of standards

62. A direct contacts mission to examine problems relating to the observance of obligations in respect of international labour standards, and particularly the application of the Forced Labour Convention, 1930 (No. 29), visited Mauritania in May 1992.

63. Since the last session of the Committee, the regional advisers on standards have visited some 40 countries. Most of these visits were designed to assist governments in finding solutions to the various problems experienced in relation to international labour standards. Others had other objectives, such as consultation concerning standards-related questions in the context of technical cooperation activities; the promotion of standards at the national, subregional and regional levels; support for multidisciplinary missions on matters relating to standards; and the promotion of standards among employers' and workers' organizations. The following countries and territories were visited: Africa: Congo, Côte d'Ivoire, Ethiopia, Gambia, Ghana, Mauritania, Nigeria, Senegal, Uganda and Zaire; Latin America and the Caribbean: Aruba, Barbados, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Panama, Paraguay, Saint Lucia and Trinidad and Tobago; Asia and the Pacific: Australia, Bangladesh, Cambodia, China, Hong Kong, Indonesia, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Viet Nam. Missions were also undertaken in Central and Eastern European countries: Belarus, Czech and Slovak Federal Republic, Estonia, Latvia, Lithuania, Slovenia and Ukraine.

64. The programme of courses and seminars designed to familiarize national labour administration officials and representatives of employers' and workers' organizations with the

obligations of member States and ILO procedures relating to Conventions and Recommendations continued. A course organized in collaboration with the ILO's International Training Centre (Turin) was attended by 20 participants, including officials and members of organizations of employers and workers from the following countries: Albania, Bahrain, Bulgaria, Colombia, Dominican Republic, Ecuador, Iraq, Jordan, Kenya, Korea, Latvia, Lithuania, Madagascar, Paraguay, Romania, Russian Federation, Sao Tome and Principe, Syrian Arab Republic and Turkey.

65. Since April 1992, several regional and subregional seminars have been organized on international labour standards: the Sixth Regional Seminar for Asia and the Pacific on National and International Labour Standards (Bangladesh); an Asian and Pacific workshop on standards-related subjects (Sri Lanka); a regional workshop on the promotion of equality of women in Latin America (Brazil); a subregional seminar on children in bondage (Pakistan); subregional seminars for workers' organizations for central African French-speaking countries (Cameroon); and for Arab-speaking countries (Tunisia); a tripartite seminar on conditions of work in Arab countries (Tunisia); a subregional tripartite seminar on the promotion of equality in employment for French-speaking African countries (Côte d'Ivoire); and a tripartite Baltic seminar on international labour standards (Latvia).

66. Activities for cooperation and the promotion of standards also took the form of participation in seminars, workshops and meetings, and the provision of advisory services concerning international labour standards in or for the following countries: Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Burkina Faso, Chile, China, Czech and Slovak Federal Republic, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Dominican Republic, El Salvador, Estonia, Ethiopia, France, Gabon, Greece, Honduras, Hungary, India, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Korea, Latvia, Lithuania, Mali, Mauritania, Mexico, Nepal, Netherlands, Nicaragua, Panama, Paraguay, Poland, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Senegal, Sierre Leone, Singapore, Slovenia, Spain, Sri Lanka, Switzerland, United Republic of Tanzania, Turkey, Uganda, Ukraine, United Kingdom, United States, Venezuela, Yemen and Zimbabwe.

67. The Thirteenth Regional Conference of American States Members, which was held in Caracas (Venezuela) from 30 September to 7 October 1992, discussed, on the basis of the Director-General's Report, issues including those relating to international labour standards and also the application of standards in the field of social security in the context of the process of economic restructuring.

B. Standards and technical cooperation

68. The relationship between standards and technical cooperation has been taken into account in the definition of the policy of "active partnership", which is intended to bring the ILO closer to governments, employers and workers in order better to respond to their needs and, at the same time, strengthen the relevance and coherence of the Organisation's activities. When they express a need for technical

cooperation, the comments made by the supervisory bodies concerning the application of ratified Conventions have been brought to the attention of area offices, regional advisers on standards and the technical departments at headquarters. The information received in response has been transmitted to the Committee of Experts.

69. During the year, responsibility for the technical coordination and supervision of regional advisers was combined with the overall coordination between standards and technical cooperation. The role of regional advisers was redefined and their number was increased. A number of case-studies were prepared with the principal objective of contributing to an understanding of the links between international labour standards and technical cooperation in specific countries or in the context of a particular theme (such as structural adjustment or the informal sector).

70. Several meetings, training seminars and workshops on the relations between international labour standards and technical cooperation were organized at headquarters or in the field in various regions for ILO staff, governments, employers and workers, donors and national counterparts, including parliamentarians and academics.

71. Information was provided to the principal technical advisers and experts in the field of technical cooperation, and to the staff of field offices, on the relationship between standards and technical cooperation. Courses on the same theme were also given regularly within the context of the training courses of the Turin Centre. The French and Spanish versions of the training guide on "International labour standards and development" are nearing completion and work is under way on the Arab version.

72. A workshop on the relationship between standards and technical cooperation was organized in Ankara (Turkey). Dialogues with legislators, with the collaboration of national Labour Ministries, were organized in Costa Rica, Guatemala and Honduras. Academic meetings on the role of international labour standards in the MERCOSUR integration process were held in Asunción (Paraguay), Montevideo (Uruguay), and Córdoba and Buenos Aires (Argentina).

IV. ROLE OF EMPLOYERS' AND WORKERS' ORGANIZATIONS

73. At each session, the Committee draws the attention of governments to the role that employers' and workers' organizations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures. The Committee notes with satisfaction that all governments have indicated in the reports supplied under articles 19 and 22 of the Constitution the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the ILO. Almost all governments have also indicated the organizations to which they have communicated copies of the information supplied to the ILO on the submission to the competent authorities of the instruments adopted by

the Conference[1] and the reports due under article 19 of the Constitution.

74. In accordance with established practice, the ILO sent to the representative organizations of employers and workers a letter concerning the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.

Observations made by employers' and workers' organizations

75. Since its last session, the Committee has received 234 observations, 47 of which were communicated by employers' organizations and 187 by workers' organizations. This is the highest number of observations ever received. It shows again the interest of employers' and workers' organizations in the implementation of ILO standards and reflects the constant efforts made by the supervisory bodies and the Office to give interested organizations complete information on their role in this area.

76. The majority of observations received (223) relate to the application of ratified Conventions.[2] Eleven observations

---

[1] Direct requests have been addressed to the following countries: Mali, Morocco, Nepal, Peru, Qatar, Russian Federation.

[2] Argentina: United Trade Union of Educational Workers of Buenos Aires on Conventions Nos. 3, 17, 26, 52, 87, 95, 98, 100, 111; Argentine Foundation of Aboriginals on Convention No. 107; Australia: Confederation of Australian Industry on Convention No. 87; Australian Council of Trade Unions on Convention No. 87; Austria: Austrian Congress of Chambers of Labour on Convention No. 100; Trade Union of Food Industry, Agricultural and Forestry Workers on Convention No. 100; Federal Chamber of Workers and Salaried Employees on Conventions Nos. 102, 103, 128; Bangladesh: Bangladesh Employers' Association on Conventions Nos. 1, 11, 144; Bangladesh Workers' Federation (BWF) on Conventions Nos. 87, 98; Bolivia: Bolivian Trade Union Federation of Miners on Convention No. 122; Brazil: National Confederation of Agriculture Workers (CONTAG) on Convention No. 29; National Trade Union of Labour Inspectors, Association of Labour Inspectors of "Minas Gerais", "Gaucha" Association of Labour Inspectors (AGITRA) on Convention No. 81; "Gaucha" Association of Labour Inspectors (AGITRA) on Conventions Nos. 29, 81, 88, 105, 142; Unique Workers' Central (CUT) on Convention No. 111; Trade Union of Bank Employees of Florianopolis on Convention No. 111; National Commission of Nuclear Energy Workers (CONTREN) on Convention No. 115; Crane, Fork-lift and other Maritime and River Ports and Terminals Cargo Handling Machinery and Equipment Operators' Union of the State of Sao Paulo on Convention No. 152; Chile:

(footnote continued on next page)

(footnote continued from previous page)

Workers' Union No. 7 of the "El Teniente" Division of Codelco Chile on Conventions Nos. 1, 2, 14, 111; National Confederation of Trade Unions of Bakery Workers (CONOPAN) on Convention No. 20; Front of Exonerated Workers of the Chilean Tobaccos Company S.A. and the Chiletabacos S.A., Private Sector on Convention No. 111; Colombia: General Confederation of Labour (CGT) on Convention No. 26; Latin American Central of Workers (CLAT) on Conventions Nos. 87, 98; Denmark: Danish Confederation of Professional Associations (AC) on Conventions Nos. 111, 122; Ecuador: Ecuadorian Confederation of Free Trade Union Organizations on Conventions Nos. 103, 131; Egypt: Holding Co. for Maritime Transport on Conventions Nos. 9, 56, 68, 92; Egyptian Trade Unions Confederation on Convention No. 111; Finland: Confederation of Salaried Employees (TVK) on Conventions Nos. 111, 160; Finnish Engineers' Association, Finnish Seamen's Union, Finnish Ships' Officers' Association on Convention No. 9; Central Organization of Finnish Trade Unions (SAK) on Conventions Nos. 30, 111, 119, 120, 122, 160, 162; Commission for Local Authority Employers (KT) on Conventions Nos. 88, 122; Employers' Confederation of Service Industries (LTK) on Conventions Nos. 111, 122; Finnish Employers' Confederation (STK) on Conventions Nos. 111, 122, 162; France: CGT Federation of Public Service on Convention No. 129; National Union of Labour Directors of the Ministry of Agriculture on Convention No. 129; France (French Southern and Antarctic Territories): National Federation of Maritime Trade Unions on Conventions Nos. 8, 9, 15, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146, 147; Gabon: Trade Union Confederation of Gabon (COSYGA) on Conventions Nos. 87, 111, 144, 154; Employers' Confederation of Gabon (CPG) on Convention No. 87; Confederation of Gabonese Free Trade Unions (CGSL) on Conventions Nos. 87, 98; Germany: German Union of Salaried Employees (DAG) on Convention No. 22; Greece: Greek General Confederation of Labour on Convention No. 98; Guinea: General Union of Workers of Guinea (UGTG) on Conventions Nos. 26, 81, 87, 98, 122, 142; Hungary: National Confederation of Hungarian Trade Unions on Conventions Nos. 26, 99; Iceland: Alliance of Graduate Civil Servants (BHMR) on Convention No. 98; India: Central Railway Mazadoor Sangh on Convention No. 1; Israel: Israeli Shipowners' Association on Convention No. 91; Italy: Italian Confederation of Workers' Unions (CISL) on Conventions Nos. 97, 143; Italian Confederation of Private Shipowners (CONFITARMA) on Conventions Nos. 9, 68, 146; National Confederation of Farmers (CONACOLTIVATORI) on Conventions Nos. 11, 141; Italian Union of Labour (UIL) on Conventions Nos. 26, 99, 119, 120, 150; General Confederation of Commerce and Tourism (CONFCOMMERCIO) on Convention No. 26; Italian Association of Liner Owners (FEDARLINEA) on Conventions Nos. 68, 92, 146; Italian Federation of Transport Workers (FILT) on Conventions Nos. 68, 92, 146; Italian General Confederation of Labour (CGIL) on Conventions Nos. 97, 119, 120, 143; Jordan: Amman Chamber of Industry on Conventions Nos. 29, 100, 105, 106, 111, 117, 118, 119,

(footnote continued on next page)

(footnote continued from previous page)
120, 122, 123, 135, 142; Mexico: National Chamber of Road Transport (CANAPAT) on Convention No. 153; New Zealand: New Zealand Council of Trade Unions (NZCTU) on Conventions Nos. 17, 26, 47, 99, 144; New Zealand Employers' Federation on Conventions Nos. 97, 122, 144; Norway: Norwegian Seamen's Union on Convention No. 69; Pakistan: All Pakistan Federation of Trade Unions on Conventions Nos. 29, 81, 87, 98, 105, 111; Pakistan National Federation of Trade Unions on Conventions Nos. 59, 81, 87, 96, 98; Peru: Federation of Workers of the Textile Factory "La Unión Ltda.S.A." (FEDE-Unión) on Conventions Nos. 24, 102, 122; Trade Union of Employees of Hierro Perú on Conventions Nos. 24, 35, 44, 102, 122; Trade Union of Workers of the "Country Inn S.A." on Convention No. 81; National Federation of Hotel and Allied Workers on Convention No. 81; General Confederation of Workers of Peru (CGTP) on Convention No. 122; Public Register Employees' Trade Union on Convention No. 122; Trade Union of Workers of Minero Peru S.A on Convention No. 122; Peruvian Information and Communication Centre for the Disabled (CICIP) on Convention No. 159; Portugal: Portuguese Confederation of Industry (CIP) on Conventions Nos. 97, 111, 131; General Union of Workers (UGT) on Convention No. 144; Confederation of Portuguese Commerce (CAP), Portuguese Confederation of Agricultural Workers, General Confederation of Portuguese Workers (CGTP-IN) on Convention No. 144; National Federation of Public Service Trade Unions on Convention No. 151; Russian Federation: Trade Union Council of the Republic of Karelia on Convention No. 95; Rwanda: Trade Union Central of Workers of Rwanda (CESTRAR) on Conventions Nos. 11, 26, 87; Spain: General Union of Workers (UGT) on Conventions Nos. 87, 96, 102, 103, 111, 122, 131, 140, 144, 162; Trade Union Federation of Workers' Commissions (CC.OO) on Conventions Nos. 87, 122; Inter-Union Center of Galicia (CIG) on Convention No. 137; Sri Lanka: Jathika Sevaka Sangamaya (National Employees' Union) on Conventions Nos. 10, 11, 16, 29, 81, 135; Employers' Federation of Ceylon on Conventions Nos. 11, 96, 135; Lanka Jathika Estate Workers' Union on Conventions Nos. 11, 81, 96, 98, 135; Ceylon Workers' Congress on Convention No. 135; Swaziland: World Confederation of Organizations of the Teaching Profession (WCOTP) on Convention No. 87; Sweden: Swedish Confederation of Professional Employees (TCO) on Conventions Nos. 98, 130, 144, 154; Swedish Trade Union Confederation (LO) on Conventions Nos. 100, 111, 137, 144; Swedish Dock Workers' Union on Convention No. 137; Switzerland: Swiss Workers' Union on Conventions Nos. 87, 102, 111, 128; Turkey: Turkish Confederation of Employers' Associations (TISK) on Conventions Nos. 11, 26, 58, 98, 102, 111, 119, 122; Confederation of Turkish Trade Unions (TURK-IS) on Conventions Nos. 58, 102, 111, 119; United Kingdom: Trades Union Congress (TUC) on Conventions Nos. 87, 98, 100, 122, 144; Confederation of British Industry (CBI) on Convention No. 144; Uruguay: Association of Labour Inspectors of Uruguay on Conventions Nos. 81, 129.

relate to the reports provided by goverments under article 19 of the Constitution relating to the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981.[1]

77. The Committee notes that, of the observations received this year, 103 were transmitted directly to the ILO which in accordance with the practice established by the Committee, referred them to the governments concerned for comment. In 131 cases the governments transmitted the observations with their reports, sometimes adding their own comments. Part Two of this Report contains the Committee's comments on cases where the observations raised an issue concerning the application of ratified Conventions.

78. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from the last session, because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It has had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's present meeting to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

79. The Committee notes that in most cases the organizations of employers and workers endeavoured to gather and present precise facts on the application in practice of ratified Conventions. It notes that the matters dealt with in these observations have touched on a very wide range of Conventions relating to the following subjects: protection of the right to organize and the right to collective bargaining, discrimination, forced labour, employment policy, labour inspection, tripartite consultations relating to international labour standards, maritime labour.

80. The Committee finally notes that the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), has now received 54 ratifications. Thus, the number of ratifications has doubled since the General Survey on the Convention in 1982,[2] which noted favourable prospects in this respect. The Committee hopes many other countries will be able to ratify it, all the more since some have recently adopted provisions to establish tripartite bodies for ILO activities, with reference to the 1976 instruments.

---

[1] Brazil: National Confederation of Industry; Finland: Confederation of Technical Employee Organizations in Finland; Confederation of Unions for Academic Professionals in Finland; Confederation of Salaried Employees (TVK); Central Organization of Finnish Trade Unions (SAK); Guinea: General Union of Workers of Guinea (UGTG); New Zealand: New Zealand Employers' Federation; Pakistan: All Pakistan Federation of Trade Unions; Poland: Independent Self-Governing Trade Union "Solidarnosc"; Sri Lanka: Jathika Sevaka Sangamaya (National Employees Union); Ceylon Workers' Congress.

[2] International Labour Conference, 68th Session, 1982, Report III (Part 4(B)), para. 202.

V. REPORTS ON RATIFIED CONVENTIONS
(articles 22 and 35 of the Constitution)

Supply of reports

81. The Committee's principle task consists of the examination of the report supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

82. In accordance with the procedure for reporting that has been in force since 1977, detailed reports from all ratifying States, covering the period ending 30 June 1992, were due to be examined this year in respect of 52 Conventions.[1] In addition, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria for more frequent reporting approved by the Governing Body and set out in paragraph 38 of the Committee's 1977 Report.

Reports requested and received

83. A total of 1,824 detailed reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,194 of these reports had been received by the Office. This figure corresponds to 65.4 per cent of the reports requested, compared with 69.9 per cent last year. The Committee regrets that, as indicated in paragraphs 96 and 97 below, a number of reports received are incomplete and do not enable it to reach conclusions regarding the application of the Conventions concerned. A table showing reports received and reports overdue, classified by country and by Convention, is to be found in Part II (section I, Appendix I). Another table (section I, Appendix II) shows, for each year in which the Committee has met since 1933, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee, and by the date of the session of the International Labour Conference.

84. In addition, 325 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 142 reports, 43.6 per cent, had been received by the end of the Committee's session, in comparison with 74.1 per cent in 1992. A list of the reports received and not received, classified by territory and by Convention, may be found appended to section II of Part Two of this Report.

85. Apart from the above-mentioned reports, 14 governments also supplied general reports on the Conventions for which detailed reports were not due for the period under review: Belgium, Canada, Chad,

---

[1] Conventions Nos. 1, 3, 7, 9, 11, 15, 20, 26, 30, 35, 36, 37, 38, 39, 40, 43, 47, 49, 58, 67, 68, 84, 87, 91, 92, 97, 99, 102, 103, 110, 111, 112, 119, 120, 122, 126, 128, 131, 133, 135, 137, 141, 143, 144, 146, 153, 163, 164, 165, 166, 170, 172.

Cyprus, Ireland, New Zealand, Poland, Saudi Arabia, Singapore, South Africa, Suriname, Switzerland, Turkey, United Kingdom.

86. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and in which this material was not otherwise available, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

Compliance with reporting obligations

87. Most of the governments from which reports were due on the application of ratified Conventions have supplied all or most of the reports requested, as can be seen from Appendix I, Part II, section I. However, 42 governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following countries: Afghanistan, Angola, Bahamas, Belize, Benin, Cameroon, Central African Republic, China, Costa Rica, Djibouti, Ecuador, El Salvador, France, France (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), Ghana, Guyana, India, Iraq, Jamaica, Malawi, Nepal, Netherlands (Aruba, Netherlands Antilles), Paraguay, Saint Lucia, Sao Tome and Principe, Solomon Islands, Thailand, Trinidad and Tobago, Venezuela, Yemen, Zimbabwe. No reports have been received for the past two or more years from the following countries: Albania, Antigua and Barbuda, Cambodia, Dominica, Guinea-Bissau, Jordan, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Seychelles, Somalia.

88. The Committee urges the governments of these countries, and also of those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. Where no reports have been sent for a number of years, it is likely that particular problems of an administrative or technical nature are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it may be that in cases of this kind assistance from the Office, in particular the help of the technical advisers on standards, could enable the government to overcome its difficulties.

Late reports

89. The Committee is once again bound to emphasize the importance of communicating reports in due time. Reports are requested on ratified Conventions by 15 October each year at the latest. Due consideration is given, when fixing this date, to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation, etc. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

90. The Committee observes that the great majority of reports are thus received between the time-limit fixed and the date on which the Committee meets: by 15 October 1992, the proportion of reports received was only 17.1 per cent. The Committee is very concerned at this percentage, which is very low, and notes that it is often the first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to lack of time. It has thus had to examine a number of reports at its present session held over from 1992.

91. The Committee can only express once again its great concern over this state of affairs, despite the relief that the four-year system of reporting and the various measures of assistance provided by the Office are intended to introduce. The Committee trusts that governments will in future endeavour to observe the time-limits laid down for the sending of their reports so that it can carry out its supervisory function adequately.

92. Furthermore, the Committee notes that for several years a number of countries have been regularly supplying the reports due on ratified Conventions in the period between the end of its work and the beginning of the International Labour Conference or during the Conference. The Committee notes with concern that this practice disturbs the regular functioning of the supervisory system and contributes to making it more burdensome.

Supply of first reports

93. A total of 75 first reports of the 121 due on the application of ratified Conventions were received by the time that the Committee's session opened. A number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following States since 1990: Cameroon (Convention No. 162); Yemen (Conventions Nos. 122, 156 and 158).

94. The Committee recalls that particular importance attaches to the first reports on the basis of which it makes it initial assessment of the observance of ratified Conventions. It therefore requests the governments concerned to make a special effort to supply these reports.

Replies to comments of the supervisory bodies

95. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour Office has written to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 35 governments to which such letters were sent, only five have provided the information requested.

96. The Committee notes with concern that there are a large number of cases in which there has been no reply to its comments. In

these 318 cases, out of all the reports requested from the governments, no report or reply to any or the majority of the Committee's comments (observations and direct requests) or the letters sent by the Office has been received.[1] This compares with 330 such cases last year and 335 the previous year. The Committee is concerned by the number of these cases, which is still very high. It is bound to repeat the observations or direct requests already made on the Conventions in question.

---

[1] Afghanistan (Conventions Nos. 95, 111, 139, 140, 141); Angola (Conventions Nos. 26, 91, 108, 111); Antigua and Barbuda (Conventions Nos. 17, 29, 87, 98, 111, 138); Bahamas (Conventions Nos. 26, 29, 42, 81, 94, 105, 117, 144); Belize (Convention No. 26); Cameroon (Conventions Nos. 3, 9, 87, 111, 122, 143, 158); Central African Republic (Conventions Nos. 13, 19, 26, 41, 95, 100, 105, 111, 117); China (Conventions Nos. 26, 159); Costa Rica (Conventions Nos. 1, 87, 102, 105, 111, 122, 129, 131, 134, 135, 137, 144, 147, 148, 150); Côte d'Ivoire (Conventions Nos. 29, 52, 136, 144); Djibouti (Conventions Nos. 1, 9, 37, 38, 87, 120, 122); Dominica (Conventions Nos. 16, 26, 29, 81, 87, 100, 105, 111, 138); Ecuador (Conventions Nos. 101, 110, 111, 119, 120, 122, 128, 131, 144, 159); Ethiopia (Conventions Nos. 87, 111); France (Conventions Nos. 13, 27, 53, 81, 92, 96, 102, 111, 125, 126, 129, 136, 146, 152); Guadeloupe (Conventions Nos. 13, 53, 92, 100, 111, 126, 131, 142, 146), French Guiana (Conventions Nos. 13, 53, 92, 100, 111, 126, 131, 142, 146), Martinique (Conventions Nos. 13, 53, 92, 100, 111, 126, 131, 142, 146), Réunion (Conventions Nos. 13, 53, 92, 100, 111, 126, 131, 142, 146), St. Pierre and Miquelon (Conventions Nos. 13, 19, 53, 63, 100, 111, 122, 126, 131, 142, 146, 149); Guinea-Bissau (Conventions Nos. 1, 19, 26, 29, 74, 81, 88, 91, 98, 100, 105, 111); Guyana (Conventions Nos. 87, 97, 115, 129, 131, 137, 139, 140, 144, 149, 151); Iraq (Conventions Nos. 105, 111, 115, 118, 119, 120, 122, 131, 132, 137, 146, 153); Jamaica (Conventions Nos. 8, 81, 97, 100, 111, 122); Jordan (Conventions Nos. 100, 105, 106, 111, 118, 120, 122, 135); Kuwait (Conventions Nos. 1, 30, 87, 119); Lao People's Democratic Republic (Conventions Nos. 13, 29); Lebanon (Conventions Nos. 1, 15, 17, 19, 30, 52, 59, 77, 78, 81, 88, 89, 90, 95, 98, 100, 106, 111, 115, 120, 122, 127, 131); Lesotho (Conventions Nos. 11, 29, 87); Liberia (Conventions Nos. 22, 23, 29, 53, 55, 58, 87, 92, 98, 105, 108, 111, 112, 113, 114, 147); Luxembourg (Convention No. 102); Malawi (Conventions Nos. 111, 144, 149); Nepal (Conventions Nos. 111, 131); Netherlands: Aruba (Conventions Nos. 69, 74, 87, 122, 126, 131, 137, 144, 146), Netherlands Antilles (Conventions Nos. 58, 87, 122); Niger (Conventions Nos. 13, 81, 87, 102, 111, 119, 131, 138); Paraguay (Conventions Nos. 1, 29, 30, 81, 87, 107, 111, 119, 122); Saint Lucia (Conventions Nos. 5, 19, 87, 94, 95, 97, 98, 100); Sao Tome and Principe (Convention No. 111): Seychelles (Conventions Nos. 5, 8, 16, 26, 58, 87, 99, 105); Solomon Islands (Conventions Nos. 26, 29, 95); Somalia (Conventions Nos. 29, 105, 111); Trinidad and Tobago (Conventions Nos. 29, 87, 111); Venezuela (Conventions Nos. 22, 29, 87, 102, 122, 128, 142, 149, 150, 153, 155); Yemen (Conventions Nos. 95, 100, 111, 131, 135); Zimbabwe (Convention No. 144).

97. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee of Experts cannot overemphasize the special importance of ensuring the dispatch of the reports and the replies to its comments on time.

Examination of reports

98. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, the Committee has followed its usual practice of assigning to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the members concerned in advance of the Committee's session. The members submit their preliminary conclusions on the instruments for which they are responsible to all their colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by their respective authors for discussion and approval.

Observations and direct requests

99. In the majority of cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations" which are reproduced in the Report of the Committee, or of "direct requests", which are not published in the report, but are communicated directly to the governments concerned.

100. As previously, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the Government to supply a detailed report earlier than would otherwise have been the case. Under the system of spacing out reports over a four-year period, which applies to most Conventions, such early reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the Government to supply full particulars to the Conference at its next session in June 1993.

101. The observations of the Committee appear in Part Two (sections I and II) of the present report, together with a list under each Convention of any direct requests. An index of all observations and direct requests - classified by country - will be found at the beginning of this report.

Cases of progress

102. In accordance with its usual practice, the Committee has drawn up a list of the cases in which it has been able to express its satisfaction at certain measures taken by governments to make the

necessary changes in their countries' law or practice following comments by the Committee on the degree of conformity between national law or practice and the provisions of a ratified Convention. Details concerning the cases in question are to be found in Part Two of this report and cover 44 instances in which measures of this kind have been taken in 42 States and 2 non-metropolitan territories. The full list is as follows:

Cases of progress	Convention Nos.
Belarus	29, 87, 111
Bulgaria	111
Burundi	105
Cameroon	87
Canada	87
Cape Verde	81
Congo	87
Denmark	102
Dominican Republic	10, 87, 111
Ecuador	103, 121
Ethiopia	87
Italy	134
Lesotho	11, 87
Malaysia	12
Mauritania	94
Mongolia	87
Nicaragua	105
Pakistan	29
Papua New Guinea	42
Portugal	97, 131
Romania	11
Rwanda	87
Sao Tome and Principe	17
Senegal	121
Spain	103
Sweden	135
Turkey	111
Ukraine	111
United Kingdom	68
Uruguay	63, 121
Venezuela	3
Zambia	111
Non-metropolitan territories	
France	
French Polynesia	3, 87
New Caledonia	35, 36

103. Thus, the total number of cases in which the Committee has been led to express its satisfaction with the progress achieved following its comments has risen to 1992 since the Committee began listing them in its reports in 1964. In addition, there have been many cases in which the Committee has been able to note with interest various measures that have been taken following its comments with a view to ensuring a fuller application of ratified Conventions. All these cases provide an indication of the efforts made by governments to ensure that their national law and practice are in conformity with the provisions of the ILO Conventions they have ratified.

104. These cases do not, however, as the Committee regularly points out, exhaust the instances in which Conventions and Recommendations have a measurable influence on the law and practice of member States. For example, the Committee has again noted a number of cases this year in which it is clear from the first report on the application of a Convention that new legislative or other measures were adopted shortly before or after ratification.

Practical application

105. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable, though uneven, source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist of the annual reports of labour inspection services, statistical yearbooks published in the States or by the ILO, observations of employers' or workers' organizations, compilations of judicial or administrative decisions, reports on direct contacts, reports on technical cooperation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

106. The Committee notes with interest that this year some 56 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. This percentage is higher than that of 1992 and that of 1991, and the same as that of 1990. The Committee none the less reiterates its appeal to governments to make every effort to include the information requested in their reports.

107. The following countries have provided information on practical application in more than half the reports concerned: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Burkina Faso, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Dominican Republic, Finland, Gabon, Germany, Greece, Guatemala, Hungary, Iceland, Israel, Italy, Kenya, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Netherlands, Norway, New Zealand, Panama, Philippines, Poland, Portugal, Romania, San Marino, Senegal, Spain, Sri Lanka,

Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Kingdom, Uruguay, Zaire, Zambia.

108. The Committee wishes particularly to thank governments that have given information on practical application in their reports, as this information has greatly helped it in assessing more accurately the extent to which ratified Conventions are actually applied in these countries.

109. As in previous years, the Committee has addressed direct requests to certain countries which have not replied to the questions in the report forms on practical application. The Committee notes that, again this year, the majority of the countries in question are developing countries and that certain of them have referred specifically to difficulties of a financial and/or administrative nature which are preventing them from compiling the statistical and other information requested. The Committee is of the opinion that these are also cases in which technical assistance from the International Labour Office could assist in overcoming the difficulties in question.

110. The Committee also notes with interest the judicial and administrative decisions on questions of principle relating to the application of ratified Conventions to which certain countries have referred in their reports. The Committee notes that 45 reports contain information of this kind and thereby throw additional light on the problems raised in these cases by the practical application of the Conventions in question.

111. For many years, the Committee has been noting that provisions concerning sanctions to secure observance of measures taken under the provisions of the Conventions to ensure their application are often inadequate because the sanctions laid down do not have a sufficiently dissuasive effect, particularly where violations of basic human rights are concerned. It once again draws attention to the importance of establishing effective sanctions and of adapting monetary penalties, particularly in countries with high rates of inflation, in such a way that they exert an effective preventive influence against acts contrary to the guarantees laid down by international labour Conventions. The Committee again requests governments to indicate in their reports the measures taken to examine the need to adapt monetary penalties from time to time in the light of inflation or to determine the amount of such penalties in such a way as to take account of currency fluctuations.

VI. SUBMISSION OF CONVENTIONS AND RECOMMENDATIONS TO THE COMPETENT AUTHORITIES

(article 19, paragraphs 5, 6 and 7,
of the Constitution)

112. In accordance with its terms of reference, the Committee this year examined the following information[1] supplied by the governments of member States, pursuant to article 19 of the Constitution of the International Labour Organisation:

(a) information on the steps taken to submit to the competent authorities within the time-limit of 12 or 18 months, as provided for in the Constitution, the following instruments adopted at the 78th Session of the Conference (1991): the Working Conditions (Hotels and Restaurants) Convention (No. 172) and Recommendation (No. 179);

(b) additional information on the steps taken to submit to the competent authorities the instruments adopted by the Conference from its 31st (1948) to its 77th (1990) Sessions (Conventions Nos. 87 to 171 and Recommendations Nos. 83 to 178);

(c) replies to the observations and direct requests made by the Committee in 1992.

78th Session

113. The Committee notes with interest that the governments of the following member States have indicated that they have submitted to the authorities considered by them to be competent the instruments adopted by the Conference at its 78th Session: Australia, Barbados, Burundi, Canada, Cape Verde, Comoros, Côte d'Ivoire, Cuba, Dominican Republic, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Ghana, Guinea-Bissau, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Japan, Kuwait, Lao People's Democratic Republic, Luxembourg, Malta, Mexico, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Singapore, Sudan, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, Ukraine, United Kingdom and United States.

31st to 77th Sessions

114. The Committee notes with interest that considerable efforts have been made by several governments to submit instruments adopted by the Conference since its 31st Session to the competent authorities, particularly in the following cases: Angola (74th to 77th Sessions), Cape Verde (76th to 78th Sessions), Fiji (71st to 74th Sessions),

---

[1] ILC: Summary of information on the submission to the competent authorities of Conventions and Recommendations adopted by the International Labour Conference, Report III (Part 3), International Labour Conference, 80th Session, Geneva (1993).

Grenada (76th and 77th Sessions), Guinea-Bissau (63rd to 78th Sessions), Haiti (69th, 70th, 72nd and 74th Sessions), India (71st, 72nd and 75th Sessions), Nepal (53rd to 56th, 58th to 61st, 66th, 67th and 75th to 78th Sessions), Sudan (74th to 78th Sessions) and Suriname (66th to 70th and 74th to 78th Sessions).

115. The table in Appendix I to section III of Part Two of the report of the Committee shows the position of each member State as it emerges from the information supplied by the governments, with regard to the discharge of the obligation to submit the Conventions and Recommendations adopted by the Conference to the competent authorities. Appendix II shows the overall position in this respect for the instruments adopted from the 31st to the 78th Sessions of the Conference.

General aspects

116. The Committee notes with concern that many countries are late - sometimes very late - in submitting to the competent authorities the instruments adopted by the Conference. In other cases, submission does not appear to have been accompanied by proposals on the action to be taken concerning the instruments being considered.

117. The Committee wishes to stress that the submission to the competent authorities of the instruments adopted by the Conference is a fundamental obligation which constitutes the indispensable first step in implementing international labour standards. In order that national authorities may be kept up to date on the standards adopted at the international level which may require action in each State so as to give effect to them at the national level, submission should be made as early as possible and in any case within the time-limits set by article 19 of the ILO Constitution. Governments, however, remain entirely free to propose any action which they may judge appropriate in respect of Conventions and Recommendations. The principal aim of the submission is to encourage a rapid and responsible decision by each member State on the Conventions and Recommendations adopted by the Conference.

Comments of the Committee and replies from governments

118. In section III of Part Two of this report, the Committee makes individual observations on the points that it considers should be brought to the special attention of governments. In three of these observations, the Committee has expressed its satisfaction at the measures taken (in Cape Verde, Guinea-Bissau and Nepal) for the submission of instruments to the competent authorities. In addition, requests with a view to obtaining supplementary information on other points have also been addressed directly to a number of countries, which are listed at the end of that section.

119. The Committee once again regrets to note that a number of governments have again failed to provide replies to its comments, even after reminders have been sent by the Office in accordance with the

request made to it by the Committee. The Committee again expresses the hope that governments will endeavour in future to supply all the required information and documents.

120. The Committee wishes once more to point out the importance of the communication by governments of the information and documents called for in points II and III of the questionnaire in the Memorandum adopted by the Governing Body. Some governments do not communicate the information and documents in question. The Committee trusts that the governments concerned will take suitable measures to comply with the Memorandum on submission to the competent authorities.

Special problems

121. The Committee notes with regret that no information has been supplied by the following 16 governments showing that the Conventions and Recommendations adopted by the Conference during at least the last seven sessions (71st, 72nd and 74th to 78th)[1] have in fact been submitted to the competent authorities: Antigua and Barbuda, Bangladesh, Belize, Cambodia, Congo, Guyana, Jamaica, Kenya, Madagascar, Pakistan, Papua New Guinea, Paraguay, Saint Lucia, Seychelles, Sierra Leone and Zaire. The increase in the number of countries which have accumulated a long backlog in this context in comparison with the three previous years is a cause of deep concern for the Committee. Indeed, there is a danger that certain countries may find it difficult if not impossible to bring themselves up to date. What is more, neither the legislative authorities nor public opinion in these countries are regularly informed of the existence of new instruments as the Conference adopts them, which defeats the real purpose of the obligation to submit explained in paragraph 117 above. However, the Committee would like to point out once again that the obligation of submission does not imply that governments must ratify the Conventions or accept the Recommendations in question. The Committee therefore expresses the firm hope that the governments concerned will promptly undertake to submit the instruments adopted at the sessions indicated and that it will be able to note the progress made in this respect in its next report. The Committee finally recalls that governments have the possibility of asking the International Labour Office for the technical assistance which it is able to provide to endeavour to solve this type of problem.

Submission of certain instruments to the appropriate authorities of the European Community

122. During the past year, several member States of the European Community (Belgium, Germany, Ireland and Luxembourg) stated that they have submitted the Chemicals Convention (No. 170) and Recommendation (No. 177), 1990, to the appropriate authorities of the Community, in

---

[1] The Conference adopted no Conventions or Recommendations at its 73rd Session (June 1987).

accordance with the procedure of which the Committee became aware a few years ago in connection with the Hours of Work and Rest Periods (Road Transport) Convention, 1979 (No. 153), and the Asbestos Convention, 1986 (No. 162), and their corresponding Recommendations. Of these four governments, two have submitted the instruments concerned to their Parliaments while the other two have commenced the necessary procedures. In their reports, they specified that the consultations provided for in article 23, paragraph 2, of the ILO Constitution and by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), will be pursued at the national level. The Committee recalls that the question of the submission of certain ILO instruments to the authorities of the European Community was examined at length in its General Report of 1990.[1]

VII. INSTRUMENTS CHOSEN FOR REPORTS UNDER ARTICLE 19 OF THE CONSTITUTION

123. In accordance with the decisions taken by the Governing Body, governments were requested to supply reports under article 19, paragraphs 5 and 7, of the ILO Constitution on the Workers with Family Responsibilities Convention (No. 156) and Recommendation (No. 165), 1981.

124. A total of 280 reports were requested and 153 received.[2] This represents 54 9 per cent of the reports requested.

125. The Committee notes with regret that the following States have not, for the past five years, supplied any of the reports on unratified Conventions and Recommendations requested under article 19 of the ILO Constitution: Cambodia, Djibouti, Libyan Arab Jamahiriya, Papua New Guinea, Paraguay, Saint Lucia, Seychelles, Sierra Leone, Solomon Islands, Somalia, Yemen and Zaire.

126. The Committee can only urge governments once again to provide the reports requested so that its General Surveys can be as comprehensive as possible.

General Survey

127. Part Three of this report (issued separately as Report III (Part 4B)) contains the General Survey of the Committee on questions covered by Convention No. 156 and Recommendation No. 165. The survey, in accordance with the practice followed in previous years, has been prepared on the basis of a preliminary examination by a working party comprising three members of the Committee.

* * *

---

[1] International Labour Conference, 77th Session, 1990, Report III (Part 4A), paras. 113-115.

[2] ILC, 80th Session, 1993: Summary of reports (articles 19, 22 and 35 of the Constitution), Report III (Parts 1, 2 and 3).

128. Lastly, the Committee would like to express its appreciation for the invaluable assistance again rendered to it by the officials of the ILO, whose competence and devotion to duty make it possible for the Committee to accomplish its increasingly complex task in a limited period of time.

Geneva, 24 March 1993. (Signed) J.M. Ruda,
Chairman.

E. Razafindralambo,
Reporter.

PART TWO

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

OBSERVATIONS CONCERNING PARTICULAR COUNTRIES

I. Observations concerning Annual Reports on Ratified Conventions (Article 22 of the Constitution)

A. GENERAL OBSERVATIONS

Albania

The Committee notes that Albania has been readmitted as a Member of the ILO with effect from 22 May 1991.

It notes that, for the second consecutive year, the reports on the Conventions ratified by Albania (Nos. 5, 6, 10, 11, 16, 21, 29, 52, 58, 59, 77, 78, 87, 98, 100 and 112) have not been received. It trusts that the Government will supply reports on the application of the Conventions ratified, in accordance with the constitutional obligations, if necessary requesting suitable assistance from the Office.

Antigua and Barbuda

The Committee notes that, for the second consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Cambodia

In the absence of any reports for more than 15 years, the Committee is unable to examine the current situation regarding the application of ratified Conventions. It notes the developments in the national situation and hopes that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Cameroon

The Committee notes that the first report due since 1990 on Convention No. 162 has not been received. It trusts that the

Government will in future meet the obligation to supply the report due on the application of this Convention.

Czech and Slovak Federal Republic

Noting that the Czech and Slovak Federal Republic ceased to exist on 31 December 1992, the Committee has decided not to pursue its examanation of ratified Conventions concerning this State.

Dominica

The Committee notes with regret that, for the third consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Guinea-Bissau

The Committee notes with regret that, for the third consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Haiti

The Committee recalls that comments made on the application of Conventions ratified by Haiti are addressed to the legitimate Government within the meaning of resolution 46/7 adopted by the United Nations General Assembly on 11 October 1991.

Jordan

The Committee notes that, for the second consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Lao People's Democratic Republic

The Committee notes with regret that, for the third consecutive year, the reports due have not been received. It trusts that the Government will in future meet the obligation to provide reports on the application of ratified Conventions.

Lebanon

With reference to the comments it has been making for a number of years, the Committee notes that with the exception of the report due under article 19 of the ILO Constitution, the reports due have not been received. It notes the developments in the national situation and hopes that the Government will be in a position to meet in future the obligation to supply reports on the application of ratified Conventions. The Committee therefore resumes comments on the application of certain Conventions the examination of which was suspended owing to the circumstances.

Liberia

The Committee notes that the reports due have not been received. It hopes that developments in the national situation will enable the Government to fulfil, in future, the obligation to supply reports on the application of ratified Conventions. Meanwhile, the Committee is formulating comments on the application of certain ratified Conventions.

Seychelles

The Committee notes that, for the second consecutive year, the reports due have not been received. It trusts that the Government will in future discharge its obligations to supply the reports due on the application of ratified Conventions.

Somalia

The Committee notes that the reports due have not been received. It hopes that it will be possible for appropriate measures to be taken in order to ensure that effect is given to ratified Conventions as soon as circumstances allow.

South Africa

1. The Committee refers to the general observations it has made since 1982 concerning reports received on the Conventions by which South Africa has remained bound since it withdrew from the ILO in 1964, namely, Nos. 2, 19, 26, 42, 45, 63 and 89. It notes that the Government has again supplied reports on all the Conventions in question; these have been examined in the light of the Declaration concerning Action against Apartheid and the Programme of Action annexed to it, as updated by the International Labour Conference in 1988, which invites the Governing Body and the Director-General to use existing ILO procedures to attain the objectives assigned to the ILO under its Programme for the Elimination of Apartheid. In this regard, the Committee has also taken into account information contained in the

Special Report of the Director-General on the Application of the Declaration concerning Action against Apartheid.

2. The Committee notes that the Government has not referred in its reports to the application of these Conventions in those parts of South Africa which constitute the so-called "independent homelands" (or "bantustans") of Transkei, Bophutatswana, Venda and Ciskei as well as those bantustans which are regarded by it as being self-governing. The Committee can only reiterate that all of these areas are covered by the ratification of these Conventions, which still apply to them. The Committee accordingly again asks the Government to give full effect to the obligations undertaken when the Conventions were ratified by indicating the position throughout the entire territory of South Africa.

3. The Committee notes from the Special Reports of the Director-General that discussions are continuing with a view to reaching agreement on the composition of an interim government and the establishment of a constitution-making body to modify the 1983 Constitution, which at present still embodies the framework for apartheid. It accordingly draws the attention of the Government to its view that international labour standards can only be implemented in practice in a context of respect for fundamental rights, when apartheid is ended and all citizens of South Africa are able to participate equally and without distinction as to race in a democratic South Africa.

4. The Committee also notes with interest that at its 253rd (May-June 1992) Session, the Governing Body noted the report of the Fact-Finding and Conciliation Commission on Freedom of Association (FFCC), appointed to examine the complaint of infringements of trade union rights by South Africa presented by the Congress of South African Trade Unions (COSATU) in May 1988. At the Governing Body's request and in accordance with the procedure for examining allegations against non-member States, the Director-General transmitted the report to the Economic and Social Council of the United Nations. At its July 1992 Session, ECOSOC unanimously adopted a resolution in which it noted with satisfaction the findings, conclusions and recommendations of the FFCC report and requested the Secretary-General of the UN to invite the Government to report, no later than 31 December 1992, and thereafter at yearly intervals until the Council is satisfied that they have been implemented, on the measures which it has taken to give effect to the recommendations contained in the report. The Committee hopes that the Government's report on its actions to implement the recommendations will show a genuine commitment to improve industrial relations in the light of international labour standards.

Yemen

The Committee notes with regret that the first reports due since 1990 on Conventions Nos. 122, 156 and 158 were not received. It trusts that the Government will in future meet the obligation to provide the reports due on the application of these Conventions.

Yugoslavia

Having regard to the decisions taken by the competent United Nations bodies, to the effect that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia; and to the consequences drawn by the ILO Governing Body, the Committee considers it preferable, in order not to prejudice the matter, to refrain from examining the application of ratified Conventions.

* * *

In addition, requests regarding certain points are being addressed to the following States: Afghanistan, Angola, Bahamas, Barbados, Belize, Bolivia, Cameroon, Central African Republic, Chad, China, Comoros, Costa Rica, Djibouti, Ecuador, El Salvador, Equatorial Guinea, France, Ghana, Guinea, Guinea-Bissau, Guyana, Haiti, India, Iraq, Jamaica, Jordan, Malawi, Mali, Mauritania, Nepal, Nicaragua, Paraguay, Qatar, Russian Federation, Rwanda, Saint Lucia, Sao Tome and Principe, Saudi Arabia, Solomon Islands, Sudan, Swaziland, Thailand, Trinidad and Tobago, Venezuela, Yemen, Zimbabwe.

B. INDIVIDUAL OBSERVATIONS

Convention No. 1: Hours of Work (Industry), 1919

Bolivia (ratification: 1973)

The Committee has been formulating comments, since many years, on the necessity to take measures to give full effect to several provisions of Conventions Nos. 1, 20 and 30.

The Government reiterates in the reports provided this year that these comments have been taken into account in the preliminary draft of the new General Labour Law, prepared with the technical assistance of the ILO. Furthermore, it states that the preliminary draft has been sent to the central organizations of employers and workers (CEPB and COB) for their comments, before the finalized draft is submitted to the National Congress for adoption. The Committee trusts that the new legislation will be adopted in the near future and that it will be in full conformity with the above-mentioned Conventions. It requests the Government to supply detailed information on all relevant developments on the matter.

Chile (ratification: 1925)

The Committee notes the Government's statement in reply to a comment from a trade union alleging that the Convention is not applied, to the effect that the dialogue on the application of the

Convention is being pursued with the Committee of Experts. The Committee regrets to note, however, that the Government has provided neither a report nor a reply to its observation of 1990.

Article 2(b) of the Convention. In its previous observation, the Committee pointed out that the text of the new Labour Code of 1987 had not changed the situation on which it had been commenting for many years.

The Code establishes a working week of 48 hours (section 23) and an ordinary working day of a maximum of ten hours (section 27).

The Committee noted in this connection that the division of the working week into five working days of nine hours and 36 minutes is offset by an additional rest day. The Committee none the less considered that this was at variance with Article 2(b) of the Convention.

The Committee again requests the Government to take the necessary steps to ensure that the daily limit of nine hours laid down in Article 2(b) of the Convention is not exceeded.

Article 6. The Committee pointed out that sections 30 and 31 of the Labour Code permit up to two hours overtime per day in certain jobs and that, under section 31(2), the hours worked in excess of the established working hours are considered as overtime, the employer alone being aware of them, and considered that these provisions were contrary to those of the Convention. Article 6(1)(b) of the Convention lays down that temporary exceptions to normal working hours may be permitted only to allow establishments to deal with exceptional cases of pressure of work, and article 6(2) lays down that the maximum number of additional hours that may be authorized must be fixed in advance.

The Committee again asks the Government to take the necessary measures so as to permit exceptions to normal working hours only in the cases set out in the Convention and to fix in advance the maximum number of additional hours that may be authorized. It recalls that a limit of two additional hours per day without a reasonable annual limit could give rise to abuses and would be definitely contrary to the spirit in which the Convention was formulated.

The Committee also asks the Government to provide information on the application of the Convention by supplying, for example, as provided for by Part VI of the report form, extracts of inspection reports, statistics or any other relevant information.

[The Government is asked to report in detail for the period ending 30 June 1993.]

India (ratification: 1921)

The Committee notes the information in the Government's report, in reply to its earlier observation. In particular, it notes that Chapter XIV of the Railways Act, 1989, contains the main rules for the working time of railroad personnel. The Committee requests the Government to furnish a copy of the provisions contained in Chapter XIV. It further notes that the Government has initiated action to frame rules and subsidiary instructions in accordance with these provisions. The Committee requests the Government to keep it informed about all progress in establishing rules and subsidiary instructions.

The Committee also takes note of the circular dated 13 April 1992 addressed to the general managers of the All Indian Railways, in which statutory hours of work for "essentially intermittent" work are set to 75 hours per week. The Government has supplied no information on consultations with the organizations of employers and workers concerned before the adoption of these work schedules. The Committee would like to underline the importance of such consultations required under Article 6, paragraph 2, of the Convention and trusts that the Government will not fail to engage in such consultations when establishing work schedules for workers performing preparatory, complementary and essentially intermittent work.

In this connection, the Committee notes the comments of the "Central Railway Mazadoor Sangh" requesting eight-hour shifts for cabinmen, levermen, pointsmen and gatemen. The Government indicates that their work was classified to be "essentially intermittent", with periods of inaction aggregating to six hours or more in a tour of 12 hours of duty. However, the Central Railway Mazadoor Sangh claims that they were servicing approximately 20 to 40 trains in 12 hours, i.e. a traffic ten times more important than it was when the British rules were adopted. The Committee would be grateful if the Government would make available to it the results of the most recent job analysis concerning this group of workers.

Finally, the Committee notes, further to its previous observation, that the Government will soon take a decision in reply to the observations of the "Bharatiya Mazadoor Sangh" organization, which considered the special provisions contained in Article 10 of the Convention to be discriminatory against India, and invited the Government to consider denouncing the Convention or to take an initiative aimed at revising it.

Iraq (ratification: 1965)

Article 6, paragraph 2, of the Convention. Further to its previous comments, the Committee notes with interest the Government's statement that legislative measures have been taken to fix the maximum additional hours which may be authorized. It notes that the text of the Act will be supplied as soon as it is published.

Article 8, paragraph 1(a) and (b). The Committee notes, in reply to its previous questions, instruction No. 8672 of 22 August 1989, which obliges employers to post at the workplace the hours of work and rest.

Kuwait (ratification: 1961)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee noted with regret that no measures have yet been taken to give effect to the following provisions of the

Convention, which have been the subject of comments for many years.

1. Private sector

Articles 1 and 2 of the Convention. In its previous reports the Government had mentioned draft labour legislation which would cover temporary workers and workers in small undertakings. These workers are not covered by the 1964 Labour Act which is now in force. The Committee requests the Government to communicate information on the present state of this draft.

Articles 6(1(b) and 2) of the Convention. The Government has repeated its previous position according to which the fixing of a limit of two hours of supplementary work per day to meet extraordinary increases in workload is sufficient to give effect to these provisions of the Convention. The national legislation also limits to two hours per day recourse to supplementary hours in case of serious accidents which are imminent or which have taken place, to repair the damage caused by such accidents, or to avoid certain losses. While the Convention does not provide for limits to be set for such cases, which are contemplated in its Article 3, it does provide for instance under Article 6, paragraph 1(b), for recourse to supplementary hours so that establishments may deal with exceptional cases of pressure of work, and paragraph 2 of that Article requires that the maximum number of additional hours be fixed. The limit of two hours per day fixed by the Government might imply considerably too many weekly or annual working hours which, in the Committee's opinion, could be in direct contradiction to the spirit in which this Convention was drafted (see in this connection the Committee's 1967 general survey on this instrument, International Labour Conference, 51st Session, 1967, Report III (Part IV), third part, paragraph 239). The Committee would therefore be grateful if the Government would take the measures necessary to fix a reasonable monthly or annual limit in this case, in conformity with the Convention's objectives.

2. Public sector

Article 6, paragraph 1(b). As the Committee has already pointed out in previous comments, Ministerial Order No. 34 of 1977 with respect to overtime in the public sector does not determine with sufficient precision the conditions and limits on the authorisation of exceptions to normal working hours. It recalls that such exceptions must remain within limits which are in conformity with the Convention's objectives. The Committee therefore again requests the Government to take the necessary measures to determine the conditions under which recourse to overtime is permitted, and to fix a reasonable annual or monthly limit on the number of additional hours which may be authorized.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Nicaragua (ratification: 1934)

The Committee notes with regret that the Government's report contains no information.

Further to the comments it has been making for many years, the Committee recalls that any amendments to the legislation should determine, after consultation with the employers' and workers' organizations, the circumstances in which additional hours may be worked and the maximum number of additional hours authorized, in conformity with Article 6, paragraphs 1(b) and 2, of this Convention, and Article 7, paragraphs 2(c), 2(d) and 3, and Article 8 of the Hours of Work (Commerce and Offices) Convention (No. 30), 1930.

It also asks the Government to provide information in its next report on the manner in which the Convention is applied providing, for example, as required by point VI of the report form, extracts from reports of the inspection services and particulars of the number of additional hours worked in the cases provided for in the Convention, together with any other useful information.

It asks the Government to keep it informed of any developments in this respect.

Paraguay (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information supplied by the Government according to which it intends to take account, in the preliminary draft of the new Labour Code, of the Committee's previous comments related to repealing section 205 of the current Labour Code. This section, in certain cases, permits the extension of the normal working day to 12 hours.
>
> The Committee points out that it has been commenting on this matter since 1969 and trusts that the Government will take these measures as soon as possible and that it will report any development to the ILO.

Peru (ratification: 1945)

Further to its previous observations, the Committee notes the Government's indications that Legislative Decree No. 26136 has been adopted to ensure that national law and practice are consistent with the Convention. The Government specifies that the above Legislative Decree covers both normal working hours and additional working hours; in this connection it mentions that section 10 establishes a working day of eight hours and a working week of 48 hours, and any work done outside the normal working day shall have a special rate of remuneration. The Government also points out that section 7 establishes an average working week of 48 hours for shift systems or cumulative systems.

The Committee asks the Government to provide a copy of Legislative Decree No. 26136 and detailed information on its practical application.

Syrian Arab Republic (ratification: 1960)

Article 6 of the Convention. The Committee notes the indications in the Government's report that a draft Legislative Decree has been submitted to the President of the Council of Ministers with a view to amending certain sections of the Labour Code, No. 91 of 1959.

For very many years, the Committee has been referring to section 117 of the Labour Code which establishes that working hours and rest periods must be organized in such a way that the presence of the worker at the workplace does not exceed 11 hours per day. The Committee pointed out that such a situation could lead to abuse and has asked the Government on several occasions to amend the above section in such a way that, except where work is "of a specially intermittent nature", the presence of the worker shall not be required at the workplace outside the authorized hours of work. In this connection, it recalls that Article 2 of the Convention specifies that working hours shall not exceed eight in the day and 48 in the week.

The Committee trusts that the Government will take the necessary measures in the near future to bring its legislation into full conformity with the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Comoros, Cuba, Djibouti, Guatemala, Lebanon, Lithuania, Malta.

Convention No. 2: Unemployment, 1919

Morocco (ratification: 1960)

Article 2, paragraph 1, of the Convention. With reference to its previous comments, the Committee notes the Government's report and the information supplied in reply to the comments made by the Democratic Confederation of Labour and by the General Union of Moroccan Workers on the application of the Convention. The allegations concerned the absence of labour commissions and of the higher labour council provided for by Royal Decree No. 319-66 of 14 August 1967, and the too limited role played by employment agencies on the labour market.

In its reply, the Government states that the labour commissions provided for by section 2 of the above Decree have been established in several areas in which there are employment agencies. During the period 1990-91, such commissions were established in 11 provinces. It adds that the Ministry of Employment, with the aim of giving a new stimulus to the activities of these commissions and to ensure that their actions are widely followed up, addressed circulars to the prefectoral employment delegates asking them to accord greater interest to the work of the labour commissions in order to ensure that they are an effective tool which can support the activities undertaken to promote employment.

While noting this information, the Committee requests the Government to state in its next report whether the higher labour council, provided for under section 4 of the above-mentioned Royal Decree, has also been established, and to state whether labour commissions have been established in each prefectoral jurisdiction or province, in accordance with section 1 of the above Decree. Please also supply a copy of the circulars sent to prefectoral employment delegates to which the Government refers in its report.

With regard to the activities of employment agencies on the labour market, the Committee notes from the Government's report that a fairly low proportion of the job vacancies created annually are channelled through the public employment services, since employers and workers prefer to deal directly with each other, without observing the employment legislation. As a consequence, the competent authorities are currently examining, in collaboration with the ILO and the Arab Labour Organization, the possibility of restructuring the public employment services and extending their scope, in order to adapt them to developments on the labour market. The Government also states in its report that it has created employment agencies for urban areas; that, with the aim of promoting the activities of public employment offices, information and guidance centres have been established and have begun to operate in Rabat and Casablanca; and that it is planned to extend such centres to all the regions of the country.

The Committee would be grateful if the Government would supply in its next report general information on the working of the system of public employment agencies as requested in the report form. Please indicate, in particular, the number of employment agencies which have been created, the number of applications for employment received, the number of vacancies notified, and the number of persons placed in employment by such agencies.

* * *

In addition, a request regarding certain points is being addressed directly to Chile.

Convention No. 3: Maternity Protection, 1919

Argentina (ratification: 1933)

1. Article 3(c) of the Convention (Cash benefits). The Committee notes the information supplied by the Government in reply to its previous comments. It would be grateful if the Government would indicate whether women workers who do not fulfil the qualifying period provided for in the national legislation for the granting of cash benefits during maternity leave can, none the less, receive benefits out of public funds or under an assistance scheme. It also asks the

Government to continue to provide information on any measures that might be taken or envisaged to reduce the qualifying period so as to facilitate maternity benefit claims by the women concerned.

2. The Committee notes the observations made in March 1992 by the United Trade Union of Education Workers of Buenos Aires (SUTEBA) on the application by Argentina of Convention No. 3, particularly concerning the length of maternity leave of temporary or supplementary women teachers in the province of Buenos Aires. It recalls in this connection that teachers are not covered by the Convention which applies, by virtue of Article 3, to women employed in industrial or commercial establishments as defined in Article 1.

Chile (ratification: 1925)

Article 3(c) of the Convention. In its previous comments, the Committee drew the Government's attention to the fact that in the case of beneficiaries whose income exceeds a certain amount (categories C and D), section 30(4) of Act No. 18.469 of 23 November 1985 established, contrary to this provision of the Convention, the maximum state participation in the cost of medical care during confinement at 75 per cent. In its reply, the Government states that this section has been amended by Act No. 19.035 of 21 January 1991 so as to establish the State's participation at a minimum of 75 per cent for category D, thereby enabling the Ministry of Health, depending on the resources available, to raise this participation up to 100 per cent of the cost of the care in question. While noting this information with interest, the Committee is bound to note that the measures which have been taken are still not sufficient to ensure, as required by the Convention, that the care provided by a doctor or a certified midwife during confinement is completely free for all the women covered by the Convention, irrespective of their income. It therefore hopes that, in accordance with the assurances given by the Government in its previous report, it will be possible to take the necessary measures in the near future, with regard to beneficiaries in the C and D categories, to raise the participation of the State to 100 per cent of the cost of medical care provided during confinement.

Colombia (ratification: 1933)

With reference to its previous comments on the extension of the territorial coverage of the social security scheme, the Committee notes with interest that a Bill to make substantial amendments to the present social security scheme will be submitted to the Congress of the Republic at its present session. It hopes that the Bill will be adopted shortly and that it will enable the social security scheme to be extended throughout the national territory and to all women workers covered by the Convention, particularly in respect of maternity protection. The Government is asked to indicate any progress made in this respect.

Nicaragua (ratification: 1934)

Article 3(c) of the Convention. With reference to its previous comments, the Committee notes the Government's statement that the situation has not changed and that no extension of the social security scheme is anticipated in the immediate future. The Committee recalls that the cost of maternity cash benefits for women not yet covered by the social security scheme continue to be assumed directly by the employer, which is contrary to this provision of the Convention. In these circumstances, it again expresses the hope that the Government will be able to review the situation and do its utmost to extend the social security scheme gradually throughout the national territory to cover all categories of women workers covered by the Convention. It asks the Government to report on all progress made in this matter and to provide information, including statistics, on the geographical coverage of the social security scheme.

Panama (ratification: 1956)

The Committee notes the information supplied by the Government in reply to its previous observation. It notes in particular that Act No. 16 of 6 November 1990 was repealed by Act No. 25 of 30 November 1992 to establish a special, comprehensive and simplified system for the establishment and operation of export zones, section 55 of which provides that the conditions of employment in export zones shall be subject to the common standards contained in the Labour Code, among other legislation.

The Committee requests the Government to state whether women workers employed in export zones are also covered by the maternity benefit provisions of the Social Security Fund (Legislative Decree No. 14 of 1954).

Venezuela (ratification: 1944)

Article 3(d) of the Convention (nursing breaks). The Committee notes with interest the information communicated by the Government in response to its previous comments in which the Committee pointed out the necessity of guaranteeing women public servants or employees who work in industrial or commercial establishments the right to nursing breaks of at least half an hour twice a day. In this respect, the Committee notes with satisfaction that article 393 of the Organic Labour Act, which provides for such nursing breaks, is applicable to public servants and employees by virtue of article 8 of the said Act.

Articles 1 and 3(c) (coverage of the social security scheme). (a) Referring to its previous comments, the Committee notes the adoption of the Act of 20 July 1991 partially reforming the Social Security Act. It notes in particular that, pending the extension of social security coverage to all inhabitants of the country, under article 2 of this Act, the protection of the mandatory social security scheme applies to permanent workers. Concerning other categories of workers, notably homeworkers, domestic workers and temporary or occasional workers, the application of the mandatory scheme will be determined by the executive authority. The Committee therefore requests the Government to indicate in its next report any measure taken or envisaged with a view to extending the social security scheme (maternity insurance) to all workers and all regions of the country in order that all categories of women workers employed in industrial or commercial undertakings, private or public (including public servants or employees), benefit fully from the protection provided for in the Convention. The Committee also requests the Government to indicate what regions are covered by the social security scheme (maternity insurance).

(b) The Committee notes with interest that article 4 of the Act of 20 July 1991 mentioned above provides that by a special resolution a substitute allowance in case of maternity may be established in localities not covered by the social security scheme or by free medical assistance. The Committee would request the Government to send the text of the special resolution once adopted.

(c) As regards women public servants or employees, the Committee notes the statement of the Government according to which despite the fact that these workers are not covered under the maternity insurance scheme by virtue of article 3 of the Social Security Act, 1967, as modified by the Act of 20 July 1991, they benefit none the less from hospitalization, surgery and maternity insurance (HCM) as well as from the necessary medical assistance given by the medical services existing in each ministry. The Committee requests the Government to indicate the relevant legislative provisions or regulations and to furnish the text.

Article 4 (prohibition of dismissal of women who are public servants or employees). Referring to its previous comments, the Committee notes with interest the decision mentioned by the Government in its report of the Supreme Court of Justice of 4 December 1985 which, based on articles 74 and 93 of the Constitution, grants the right of stability in their employment for pregnant workers who are public servants or employees, including those occupying positions to which appointments are made, and, consequently, ensures their right to full pre- and post-natal leave without discrimination.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Cameroon, Chile, Colombia, Côte d'Ivoire, Germany, Guinea, Mauritania, Panama, Venezuela.

Convention No. 5: Minimum Age (Industry), 1919

India (ratification: 1955)

The Committee notes the information supplied by the Government in its report to the effect that a number of projects to improve implementation of the legislation pertaining to child labour (Child

Labour (Prohibition and Regulation) Act, 1986; Factories Act, 1948; Mines Act, 1952) in a number of sectors, such as the match industry, the precious stone polishing industry, the glass industry, the brassware industry, the hand-made carpet industry, the lockmaking industry and the slate industry, are being undertaken under the aegis of anti-poverty programmes. It also notes the projects to provide formal and non-formal education for children and, in particular, the plan to open a number of schools for children who have been withdrawn from employment. The working of the projects is periodically reviewed by a Committee established in the Ministry of Labour to monitor the projects set up under the National Child Labour Policy. The Government refers to a Central Advisory Board and to similar Boards at the state level to advise governments on the progressive elimination of child labour. It also refers to a number of projects undertaken with the assistance of the International Labour Office. The Committee would request the Government to provide information as to the number of children who have received benefits under the various projects.

The Committee refers to section 14 of the 1986 Child Labour Act and asks the Government to indicate the number of prosecutions launched and violations recorded and the number of sanctions imposed under this section, and under section 67 of the 1948 Factories Act, section 40 of the 1952 Mines Act, section 109 of the 1958 Merchant Shipping Act and section 21 of the 1961 Motor Transport Workers' Act.

The Committee notes that under section 17 of the 1986 Child Labour Act, the appropriate government may appoint inspectors for the purpose of securing compliance with the provisions of the Act. It also notes from the papers presented at the Asian Regional Seminar on Children in Bondage, held in 1992, that as part of a pilot programme launched in two states for the duration of the Seventh Plan, inspectors were appointed in selected districts for the sole purpose of enforcing child labour laws. This Plan is to be extended to all the other states in the course of the Eighth Plan now being implemented. It asks the Government to provide information on the results of the pilot programme during the Seventh Plan, how many violations were detected by the inspectors, the follow-up action, and the number of inspectors appointed under the provisions of section 17 of the above-mentioned Act.

Lastly, the Committee notes with interest the conclusions and recommendations on child labour contained in the report of the National Commission on Rural Labour (New Delhi, 1991), and particularly the link that the National Commission establishes between free and compulsory education for all up to age 14 and the prohibition from employing children under the age of 14 years in any work or employment. It asks the Government to continue to provide information on any action taken or envisaged as a result of these recommendations.

Singapore (ratification: 1965)

The Committee notes the information provided by a Government representative in a statement to the Conference Committee in 1992 and the subsequent discussion on the application of the Convention.

1. In its earlier comments, the Committee noted that under section 4 of the Employment of Children and Young Persons Regulations, 1976, children aged 12 or more can be employed in industrial undertakings with the written permission of the Commissioner for Labour. This provision is not consistent with Article 2 of the Convention which provides that the only industrial undertaking in which children under the age of 14 years may be employed is an undertaking in which only members of the same family are employed.

The Committee notes the statement made by the Government to the Regional Adviser on Standards during his mission in August 1992 conducted on the suggestion of the Conference Committee, that the Commissioner for Labour has never delivered any authorizations under section 4 of the 1976 Regulations and probably never will; the number of applications for permission is decreasing constantly and dropped from 34 in 1989 to 11 in 1991 and two in 1992.

The Committee recalls that the Government has stated several times that it intends to review the legislation in order to bring it into conformity with practice and the Convention on this point, and hopes that it will shortly be able to report progress in this respect.

2. The Committee also noted that section 75(1)(b) of the Employment Act as amended in 1975 authorizes the engagement of children below the age of 14 as apprentices.

The Committee recalls that the exception provided for in Article 3 of the Convention applies to work done in technical schools with the approval and supervision of the public authorities and not to the apprenticeship of children under the age of 14.

The Committee reminds the Government that it has repeatedly expressed its intention to bring the legislation into conformity with the Convention, and requests it to indicate the measures that have been taken or are envisaged for this purpose. Meanwhile, it asks the Government to provide information on the number of children under the age of 14 who are engaged as apprentices.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Haiti, Saint Lucia, Seychelles.

Information supplied by Grenada in answer to a direct request has been noted by the Committee.

Convention No. 7: Minimum Age (Sea), 1920

A request regarding certain points is being addressed directly to Colombia.

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

Jamaica (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes from the Government's reply to its previous observations that the Jamaican Bill on Merchant Shipping has not yet been submitted to Parliament. This Bill was, among others, to eliminate the restrictions in section 157 of the United Kingdom Merchant Shipping Act, 1894 (applicable to Jamaica) which, unlike the Convention, provides that "in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages".
>
> The Committee is bound once again to reiterate its hope that the above-mentioned Bill will become law in the very near future so as to give full effect to the Convention on this point, which has been the subject of the Committee's concern for many years. It requests the Government to report any progress made in this regard and to supply the text of the new Act as soon as it is adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Panama (ratification: 1970)

The Committee notes that the Government's report has not been received. With reference to its previous comments, it notes, however, the new version of the Bill to regulate employment at sea and on waterways transmitted by the authorities to the regional adviser on international labour standards during the mission to Panama in September 1992. The Committee hopes that this Bill, section 62 of which (read in conjunction with section 5) provides for an unemployment indemnity in the event of the loss of the vessel, in accordance with Article 2 of the Convention, will be adopted in the near future and that the Government will indicate the progress achieved in this respect in its next report.

Portugal (ratification: 1981)

Article 2 of the Convention. With reference to its previous comments, the Committee recalls that since its first report on the application of the Convention the Government has been referring to a proposal to amend section 239 of the Regulations respecting the register of seafarers (Decree No. 45969 of 1964) which, in conflict with the Convention, limits the period of unemployment indemnity and subjects the right to compensation to the diligence shown by the crew in protecting the vessel. In its latest report, however, the Government states that the proposed revision of the legislation governing labour contracts of merchant marine employees was considered no longer to respond to the current needs and was not proceeded with, but that the above-mentioned amendment will be incorporated in the next revision of the said legislation. While noting this information the Committee cannot but once again urge the Government to take appropriate measures with a view to amending in the very near future section 239 of the above-mentioned Regulations so as to give full effect to Article 2 of the Convention, which provides that all seamen covered by this instrument shall be paid in case of loss or founding of the vessel an employment indemnity at the full wage rate for up to at least two months.

Seychelles (ratification: 1978)

The Committee notes with regret that for the third time in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee noted from the Government's reply to its earlier comments that the competent authority will amend the draft Seychelles Merchant Shipping Act, 1983 in conformity with the Convention. The Committee therefore hopes that the draft will soon be adopted so as to give full effect to the Convention by eliminating the limitation contained in section 157 of the United Kingdom Merchant Shipping Act of 1894, which is still in force in the Seychelles. Such a limitation is contrary to the Convention since it subjects the right to indemnity for unemployment in case of loss or foundering of the ship to the condition that the seafarer has exerted himself to the utmost to save the ship, cargo and stores.
>
> The Committee requests the Government to supply any information on the progress made with respect to the adoption of the above-mentioned draft Act and to forward a copy once it has been adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Sierra Leone (ratification: 1961)

The Committee notes from the reply of the Government to its previous observation that the necessary amendments to the merchant shipping legislation have not yet been adopted so as to abolish, in accordance with the Convention, the bar to the right of a seaman to unemployment indemnity in case of shipwreck where it is proved that he has not exerted himself to the utmost to save the ship, cargo and stores. The Government states, however, that the matter is with the Law Officers' Department and that it will inform the Committee of any development. The Committee cannot but once again urge the Government to make the necessary changes in the legislation in the very near future so as to ensure the full application of the Convention.

Tunisia (ratification: 1970)

In reply to the Committee's previous comments concerning the need to amend the Merchant Shipping Code to ensure that the protection laid down in the Convention is applied to seafarers employed on pleasure vessels of 10 gross tonnes or less, in accordance with Article 1, paragraph 2, and the Maritime Labour Code, in order to ensure payment of an unemployment indemnity equal to the wage rate for at least two months, in accordance with Article 2, paragraph 2, the Government states that these matters will be examined as soon as possible by the competent departments of the Ministry of Transport in consultation with the various parties concerned. While noting this information, the Committee recalls that as far back as 1977 the Government provided copies of Bills which were to ensure proper application of the Convention. In these circumstances, the Committee is bound once again to express the hope that the Government will do everything in its power to ensure that the necessary amendments to the Merchant Shipping Code and the Maritime Labour Code are adopted in the very near future so that full effect is given to the above-mentioned provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Papua New Guinea, Tunisia.

Convention No. 9: Placing of Seamen, 1920

Cameroon (ratification: 1970)

With reference to its previous observation, the Committee notes that the Government's report has not been received. It must therefore return to the questions raised in its previous comments in a new direct request. It hopes that the Government will not fail to take the necessary steps and supply the information requested.

Chile (ratification: 1935)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In its previous comments, the Committee pointed out that Article 4, paragraph 1, of the Convention required the Government to organize and maintain an efficient and adequate system of public employment offices "for seamen" without charge. The work of employment offices must be administered by "persons having practical maritime experience" (paragraph 2).
>
> The Committee notes the placement activities undertaken by the National Vocational Education and Employment Service, through

municipal employment offices, and private employment agencies [Presidential Decree No. 146, of December 1989, to approve the regulations issued under Legislative Decree No. 1, of 1989 respecting training and employment (reproduced only in Spanish by the ILO in the series Documentos de Derecho Social 1990/2, 1989-CHL 1)]. Private employment agencies have to register with the National Service and may be established by a workers' union or a trade union organization. The Government considers that it is an efficient and adequate system not only "for seamen", but also for the other workers in the country. In practice, the representative associations of shipowners and the trade unions of seamen maintain constant relations which promote the speedy placement of staff to the satisfaction of both parties. All these operations, according to the Government, are administered by persons with broad practical maritime experience.

The report form adopted by the Governing Body requests data on the number of applications for employment received, the number of vacancies notified and the number of seamen placed in employment. The Government states that there are no special statistics for seamen.

The Committee is bound to emphasize that data on the organization of the system of offices for finding employment for seamen without charge (see also Article 10, paragraph 1), contribute to ensuring that full effect has been given to the above provisions of the Convention. The Committee therefore trusts that in the near future the Government will be in a position to supply the above data on the placement of seamen in order to ensure the full effectiveness of "an efficient and adequate system of employment offices for finding employment for seamen without charge".

2. Article 5. In its previous comments, the Committee noted that this provision requires committees consisting of "an equal number of representatives of shipowners and seamen" to be constituted. The Committee requested information on cases in which people interested in the welfare of seamen had given assistance to the regional committees of municipal employment offices. In its report, the Government states that there are no special committees consisting of shipowners and seafarers constituted to monitor the efficient and adequate operation of the offices for finding employment for seamen without charge. It adds that in the Vth Region of Puerto de Valparaíso, the principal port in the country, there is a committee consisting of representatives of the maritime sector, who are interested in the welfare of seamen and contribute their assistance and practical maritime experience.

The Committee is bound to express once again the hope that the Government will provide further information on cases in which committees consisting of an equal number of representatives of shipowners and seamen have been consulted in all the aspects of the operation of the offices for finding employment for seamen without charge.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Colombia (ratification: 1933)

The Committee takes note of the information provided by the Government in reply to its earlier comments.

Article 2 of the Convention. In its earlier comments the Committee referred to Decree No. 1433 of 1983 which permits the continued operation of temporary employment agencies and fee-charging placement agencies. It also noted the adoption of Act No. 50 of 1990, sections 71 to 94 of which are regulated by Decree No. 1707 of 1991 and concern temporary employment agencies. The Government indicated that in most cases commercial companies do not use the free public employment services but their own recruitment services, or engage seamen through temporary employment agencies. In its latest report the Government expresses the intention to adopt the necessary measures in order to give full effect to this Article of the Convention. The Committee can but reiterate its hope that such measures will be adopted in the nearest future and that they will prohibit the fee-charging placement of seafarers, or their placement by a commercial enterprise for pecuniary gain, in conformity with this Article. It also would be grateful if the Government would provide more detailed information on sanctions for various violations imposed upon such agencies, referred to in the report.

Article 4. The Committee notes the information concerning the reorganization of the employment service which is still under way, and in particular, the devolution of the function of promoting and carrying out the administration of a free public employment service to the National Service of Apprenticeship (SENA). The Government indicates, however, that there is no specific regulation of such service in regard to seafarers, though it is contemplated in the above-mentioned Act No. 50 as far as temporary workers are concerned. The Committee reiterates its hope that the Government will not fail to adopt the necessary measures as soon as possible with a view to give full effect to the provisions of this Article which requires the organization of an efficient and adequate system of public employment offices for finding employment for seafarers without charge.

Article 5. The Committee notes with regret that the Government's report contains no information on any measures taken in order to give effect to this Article, which provides for consultations to be held with representatives of shipowners and seafarers through committees constituted to advise on matters concerning the carrying on of public employment offices for seafarers. It once again expresses the hope that such measures will be taken in the very near future and asks the Government to provide, in its next report, information on any progress made in this regard.

Article 10, paragraph 1. The Committee would be grateful if the Government would continue to supply information, statistical or otherwise, concerning unemployment among seafarers and concerning the work of employment agencies for seafarers, as required by this Article.

Egypt (ratification: 1982)

The Committee notes the information supplied by the Government in reply to its previous comments. It also notes the comments made by the Maritime Transport Holding Company concerning the application of the Convention, which were transmitted by the Government with its report.

Article 5 of the Convention. The Government states, with regard to the placement of Egyptian seafarers on foreign vessels, that these seafarers are engaged through placement offices established for that purpose in each Egyptian port and which are composed of representatives of the public administration, the union and the shipowner. In its previous comments, the Committee noted, according to the Government's reports supplied in 1987 and 1988, that there were no committees to be consulted with regard to the operation of placement offices for seafarers. It trusts that the Government will not fail to take, in the very near future, the appropriate measures to give effect to this Article of the Convention, which explicitly provides for the constitution and consultation of such committees, which shall be composed of an equal number of representatives of shipowners and seafarers. It requests the Government to supply information in its next report on any progress achieved in this respect.

Please also supply all available information, statistical or otherwise, concerning unemployment among seafarers and the work of seafarers' employment agencies, in accordance with Article 10.

Mexico (ratification: 1939)

The Committee takes note of the information provided by the Government in reply to its earlier comments. The Government indicates, with reference to its previous reports, that the employment of seafarers in Mexico is effected under the procedures and conditions of work agreed to by employers and workers. It also states that the National Employment Service offers its services to all applicants including those who would like to work on board and that private employment agencies do not participate in finding employment for seafarers.

While noting this information, the Committee would like to draw the Government's attention once again to the fact that the practice for the placement of seafarers which was described in the previous reports, to which reference is made in the Government's present report, is not in conformity with the provisions of Article 4, paragraph 1, of the Convention, which requires each member State to ensure the organization and maintenance of an efficient and adequate system of employment offices for finding employment for seafarers without charge, which may be organized and maintained either (a) by representative associations of shipowners and seafarers jointly under the control of a central authority, or (b) by the State itself. The Committee therefore requests the Government to indicate, in its next report, measures taken or envisaged to ensure placement of seafarers in accordance with the provisions of the Convention. It also asks the

Government to supply information concerning the work of the National Employment Service in regard of seafarers, indicating, in particular, the number of applications for employment received, the number of vacancies notified and the number of seafarers placed in employment, if any, by its offices. Please also indicate steps that have been taken to coordinate the work of various employment offices on a national basis (paragraph 3).

Article 5. With reference to its earlier comments, the Committee notes that there is no new information in the report concerning the constitution of committees consisting of an equal number of representatives of shipowners and seafarers which should be consulted on matters concerning the carrying on of the employment offices for seafarers. It can but reiterate its hope that the Government will not fail to adopt appropriate measures in order to establish a consultation procedure in accordance with the provisions of this Article and asks the Government to report any progress made in this regard.

Article 10, paragraph 1. The Committee refers to its comments under Article 4 above and notes the information on the difficulties encountered by the National Employment Service in processing the statistical data on the employment of seafarers. It expresses the hope that such information will be communicated by the Government as soon as it is available, as required by this Article.

Uruguay (ratification: 1933)

Articles 4 and 5 of the Convention. The Committee notes the information provided by the Government in reply to its earlier comments. It notes, in particular, the agreement reached in the tripartite meeting with the participation of representatives of the National Naval Prefecture, the Chamber of the Merchant Marine and the Inter-Union of Workers - National Convention of Workers (PIT-CNT), convened in October 1992, to establish as soon as possible a tripartite administrative committee in order to give effect to Articles 4 and 5 of the Convention. The Committee expresses the hope that the administrative committee will be effectively functioning in the nearest future and that the Government will be in a position to provide, in its next report, information on the organization and functioning of the system of employment offices for finding employment for seamen without charge and on measures taken with regard to the consultation procedure of committees consisting of an equal number of representatives of shipowners and seamen, as required by these Articles. Please also indicate the follow-up, if any, given to the draft regulations respecting the Registration Service for Seamen in the Merchant Marine, referred to in the Government's previous report.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Cameroon, Djibouti, Finland, Greece, Netherlands, Nicaragua, Norway, Poland, Romania.

Convention No. 10: Minimum Age (Agriculture), 1921

Dominican Republic (ratification: 1933)

Articles 1 and 2 of the Convention. The Committee notes with satisfaction the adoption of the new Labour Code, promulgated on 29 May 1992 and prohibiting the employment of children under 14 years in the agricultural sector. It also notes the Government's information on the practical application of the legislation giving effect to the Convention and would appreciate receiving such details in future reports.

* * *

In addition, a request regarding certain points is being addressed directly to the following State: Sri Lanka.

Convention No. 11: Right of Association (Agriculture), 1921

Lesotho (ratification: 1966)

With reference to its previous comments, the Committee notes with satisfaction that the Labour Code which was drawn up with the technical assistance of the ILO entered into force on 12 November 1992. The Committee notes that section 168(2) of the Code stipulates that the right of association is guaranteed to workers and employers in all sectors of the economy including agriculture, and that all persons engaged in agriculture, in whatever manner, shall enjoy the same rights of association and combination as workers in other sectors, thereby addressing the Committee's previous concerns with respect to the full application of Article 1 of the Convention.

Malaysia (ratification: 1960)

In relation to the comments made by the Malaysian Trades Union Congress concerning the application of the Convention, the Committee takes note of the Government's report as well as of the explanations given by the Government representative to the Conference Committee. It notes in particular that the Government representative reiterates that the Trade Union Act, 1959, applies to all workers employed under contract of service in which an employer-employee relationship exists (including workers who work for agricultural enterprises) and that agricultural workers who work on their own behalf are only free to form and join associations to protect their interest under the Societies Act, 1966, and the Cooperatives Act, 1948. The Government added that it did not make sense to accept that the latter could form trade unions because they have nobody with whom to negotiate.

This Committee, like the Conference Committee, notes with regret the Government's continued failure to bring its legislation into conformity with the Convention, which provides that a country that ratifies this Convention "undertakes to secure to all those engaged in agriculture the same rights of association and combination as to industrial workers and to repeal any statutory or other provisions restricting such rights ...". The Convention is designed to protect self-employed agricultural workers in their economic relationships, which are often with governments.

The Committee insists that the Government amend its legislation to bring it into conformity with the Convention and to indicate in its next report any measures taken in this regard.

Morocco (ratification: 1956)

The Committee takes note of the Government's reports and its reply to the comments of the General Union of Moroccan Workers (UGTM) and the Democratic Confederation of Labour (CDT) to the effect that the Dahir of 16 July 1957 concerning trade unions, which they say applies to all sectors (agricultural and otherwise), does not provide any real guarantee as regards the exercise of the right of association and that trade union committees are not recognized in any legal text. The UGTM and the CDT also referred to arbitrary measures against trade union committees in the agricultural sector which are applied just after they have been formed and which impair their right of association.

The Committee observes that the Government does not refer to the Dahir of 16 July 1957 respecting trade unions in its reports, although it maintains that the Convention is applied by the Dahir of 15 November 1958 regulating the right of association, and that the workers' right to organize in order to defend their occupational interests is exercised under the same conditions in the agricultural sector as in the other sectors of the economy. It also notes that, according to the Government, several trade unions and employers' associations have been formed in the agricultural sector (National Federation for the Agricultural Sector, National Union of Workers in Agriculture, Free Federation for Agriculture, Moroccan Agricultural Union and Morocco Union of Chambers of Agriculture).

The Committee none the less observes that the Dahir of 15 November 1958 contains provisions which are more restrictive for the forming of associations than those of the Dahir of 1957 concerning trade unions, and are enforceable by heavy prison sentences.

In these circumstances, the Committee asks the Government to indicate in its next report whether the Dahir of 1957 on trade unions, which guarantees that trade union organizations may be formed without prior authorization, applies to the agricultural sector, to the exclusion of the Dahir of 1958 regulating the right of association.

Furthermore, the Committee notes that the Government has not replied to the allegation of the UGTM and the CDT concerning arbitrary measures against the constitution of trade union committees in the agricultural sector, and asks it to submit its observations on this matter with its next report.

Romania (ratification: 1930)

The Committee notes the text of article 37 of the Constitution adopted on 8 December 1991 and of section 4 of Act No. 54 of 1991 respecting trade unions.

It notes with satisfaction that the above provisions give effect to Article 1 of the Convention.

Rwanda (ratification: 1962)

With reference to its comments made since 1969 relating to the exclusion of agricultural workers from the scope of the Labour Code, the Committee notes the Government's statement that the draft Legislative Decree to repeal section 186, which contains the said exclusion, was submitted to the competent authorities on 23 February 1991.

Recalling the previous statement made by the Government that persons engaged in agriculture have, in practice, always enjoyed the same rights of association and combination as industrial workers, the Committee trusts that this draft Decree will be adopted in the very near future by the competent authorities in order to bring the legislation into conformity with current practice and with the Convention. It requests the Government to supply a copy of the Labour Code, as amended, once it has been adopted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burundi, Guatemala, Sri Lanka.

Information supplied by Bangladesh, Brazil and Zambia in answer to a direct request has been noted by the Committee.

Convention No. 12: Workmen's Compensation (Agriculture), 1921

Colombia (ratification: 1933)

In reply to the Committee's previous comments, the Government indicates that the draft social security reform, prepared in accordance with article 48 of the new Constitution, is to be submitted to Congress at its present session. With regard to the agriculture and livestock sector, the Government states that it undertook on Farmers' Day, 19 July 1992, to extend the coverage of the social security scheme to the whole of the national territory.

The Committee notes this information. It also notes from the statistics supplied by the Government that the number of occupational accidents reported in the agriculture and livestock sector was still relatively high in 1990. In these circumstances, and in view of the fact that 60 to 96 per cent of workers in this sector are still not covered by social security, the Committee again expresses the hope that, as part of the social security reform, the Government will be able to take the necessary measures to extend progressively to the whole of the national territory the occupational accident branch of the social security scheme, so as to cover all agricultural workers covered by the Convention. Pending the achievement of this objective, the Committee can but insist once again that the Government take the necessary measures to amend the Labour Code, which sets out lower levels of compensation than those prescribed in the compulsory social security scheme, as regards the duration of both medical assistance and cash benefits.

The Committee hopes that the Government's next report will contain information on the progress made in this respect. It also asks the Government to continue to provide information, including statistics, on the extension of the social security scheme to the rural sector in respect of workmen's compensation.

Malaysia (ratification: 1961)

Peninsular Malaysia

The Committee took note of the information supplied by the Government in reply to its previous observation, as well as of the discussion held in the Conference Committee in June 1992.

The Committee notes with satisfaction that following the amendment of the Employees' Social Security Act of 1969 by the Employees' Social Security (Amendment) Act, 1992, which came into force on 1 July 1992, the Act now covers all establishments having one or more employees and applies to all employees whose wages do not exceed a certain amount. In addition, a number of exceptions in respect of certain categories of employees contained previously in the First Schedule to the Act were deleted, including the one concerning agricultural workers who are employed for the purpose of cultivating, upkeeping and harvesting paddy. In this connection the Committee also notes with interest the Government's statement that the Act applies now to all agricultural workers who are employed under a contract of service with an employer if they earn a monthly wage of two thousand Malaysian dollars or less per month.

The Committee would like the Government to supply in its next report detailed information on the practical application of the Convention, including statistical data, as required by point V of the report form adopted by the Governing Body.

Morocco (ratification: 1956)

With reference to its previous observation and the comments made on 5 March 1991 by the Democratic Confederation of Labour and the General Union of Workers of Morocco on the application by Morocco of several Conventions, including Convention No. 12, the Committee notes the information contained in the Government's reports received in March and October 1992.

In reply to the comments made by the above trade union organizations to the effect that employers avoid declaring industrial accidents and fail to fulfil their obligations in this respect, the Government states that the legislation obliges the employer to declare any accident which comes to his notice even if the victim continues to work. This declaration, which sets in motion the compensation procedure, may also be made by the victim of the accident or his or her representative up to two years after the accident, which offers the advantage of limiting any temptation that employers may feel to avoid their obligation to declare accidents which occur to their employees. It adds that the difficulties of a practical nature which may prejudice the setting in motion of the compensation procedure by the workers themselves (according to the complainant organizations, agricultural workers often relinquish their rights because they are ignorant of the law and wish to avoid judicial procedures which would require them to appear before a tribunal in the city) could be overcome through intensified education and awareness programmes for the workers concerned. The Committee would be grateful if the Government would supply detailed information on any measures which are taken to this effect and on any measures which have been taken or are envisaged to encourage employers themselves to respect more fully their obligations to notify occupational accidents which occur in the agricultural sector.

Furthermore, the Committee notes that the Government's report does not contain a reply to the allegations concerning the absence of Ministry of Labour statistics of industrial accidents in the agricultural sector. It hopes that the Government's next report will contain information on this point. Please in particular indicate the number of employees in the agricultural sector who are protected by the industrial accident compensation scheme in proportion to the total number of employees in that sector; the number of industrial accidents occurring in agriculture; and the amount of benefits granted in the event of the incapacity, invalidity or death of a worker as a result of an industrial accident.

Finally, the Committee refers to the comments that it has made concerning Conventions Nos. 81 and 129 with regard to the supervision of labour legislation by the labour inspection services in agricultural enterprises.

Rwanda (ratification: 1962)

In reply to the Committee's previous comments, the Government recalls that although agricultural workers are not covered by a special occupational accident compensation scheme or formally protected by social security legislation, no distinction is made, in practice, between agricultural and other workers. The Government none the less adds that it has taken due note of the proposal that it should request technical assistance from the International Labour

Office on this matter and that a formal request should shortly be submitted to the Office.

The Committee takes note of this information. It trusts that, with the Office's assistance and in accordance with the assurances it has been giving for over ten years, the Government will be able to take the necessary measures to bring the national legislation into line with the Convention at an early date by explicitly extending the scope of the Legislative Decree of 22 August 1974 (organizing social security) to all agricultural workers, including day workers and temporary workers.

Convention No. 13: White Lead (Painting), 1921

Algeria (ratification: 1962)

In comments it has been making since 1965, the Committee noted that there were no specific provisions giving effect to the Convention. It notes the Government's indication in its latest report that the text to give effect to the provisions of the Convention has already been prepared and submitted to the social partners for examination.

The Committee trusts that the necessary measures will be taken in the very near future to ensure the application of Article 1 of the Convention (prohibition of the use of white lead and sulphate of lead in the internal painting of buildings), Article 2 (regulation of the use of white paint in artistic painting), Article 3 (prohibition of the employment of males under 18 years of age and of all females in any painting work involving the use of white lead), Article 5 (regulation of the use of white lead in painting operations for which its use is not prohibited) and Article 7 (establishment of statistics on morbidity and mortality due to lead poisoning). The Government is asked to indicate in its next report any progress made in this respect and to provide a copy of the relevant text as soon as it has been adopted.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Central African Republic, France, Guatemala, Iraq, Lao People's Democratic Republic, Madagascar, Mauritania, Nicaragua, Senegal, Venezuela.

Information supplied by Guinea and Niger in answer to a direct request has been noted by the Committee.

Convention No. 14: Weekly Rest (Industry), 1921

Requests regarding certain points are being addressed directly to the following States: Ethiopia, Iraq, Malta, Solomon Islands.

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

Requests regarding certain points are being addressed directly to the following States: Djibouti, Dominica, Seychelles, Solomon Islands.

Convention No. 17: Workmen's Compensation (Accidents), 1925

Kenya (ratification: 1964)

1. In reply to the Committee's previous comments, the Government states in its report and in the information supplied to the Conference Committee in June 1992 that it has found it necessary to re-examine the proposed legislation on work injuries in order to ensure that there is total harmony with the Convention and that every effort has been made to incorporate the Committee's comments during the revision of the text of the draft legislation on the Work Injury Benefits (Insurance) Scheme. The Committee notes this information. It has also examined the new draft legislation transmitted by the Government. In this context, it notes with interest that section 52(2) of the above draft legislation introduces a provision which explicitly lays down the right of a worker who has been a victim of an industrial injury whose degree of incapacity is subsequently increased by a worsening of his condition, to apply for a revision of the level of the pension, in accordance with Article 8 of the Convention. However, the Committee is bound to note that the text of the new draft legislation still does not respond to the requirements of the Convention with regard to certain other points that it raised in its observations in 1991 and 1992. The Committee therefore considers it necessary to draw the Government's attention once again to the following divergencies between the draft legislation and the Convention.

Article 2 of the Convention. Section 22(2) of the draft text excludes the compensation of industrial accidents for workers ordinarily employed outside Kenya but temporarily employed in Kenya by an employer who carries on business chiefly outside Kenya, unless an agreement has been concluded to the contrary. This exclusion is not covered by the cases mentioned in Article 2, paragraph 2, of the Convention.

Article 5. (a) In its previous comments, the Committee drew the Government's attention to the fact that the provisions of the previous draft text provided, contrary to the Convention, for the payment of a lump sum where a degree of incapacity is less than 40 per cent or where the amount of the compensation is less than a certain sum, under conditions which are not authorized by this provision of the

Convention. The Committee notes in this context that section 56(1) of the latest draft text supplied by the Government prohibits the commutation into a lump sum of a pension in cases in which the degree of permanent disability is higher than 20 per cent. It therefore hopes that section 48(1)(c) and (d) will be brought into line with section 56(1) so as to provide for the payment of compensation in the form of a lump sum only when the degree of incapacity does not exceed 20 per cent.

(b) Furthermore, the Committee considers that it would be desirable to replace the term "accident" by the term "death" in section 4(1)(b) and section 50(1), in order to take into account situations in which the death of a victim of an industrial accident occurs after the accident.

Article 7. In view of the fact that the additional compensation to be provided in cases where the incapacity requires the constant help of another person must be paid, in accordance with this provision of the Convention, for as long as the state of health of the injured person requires it, the Committee considers that it would be desirable to delete from section 57(1) of the draft text the words "as may be required for a specified period which shall be reviewed from time to time".

Articles 9 and 10. (a) Section 69(2) of the new draft text provides for the fixing of maximum amount of compensation for expenses, particularly for medical, surgical, pharmaceutical and hospital treatment, and the supply and replacement of artificial limbs and surgical appliances, whereas the determination of a ceiling of this type is not authorized by the Convention, as the Committee has emphasized for many years.

(b) Furthermore, the Committee wishes to draw the Government's attention to the fact that the medical aid provided for in Article 9 of the Convention must be provided to injured workmen irrespective of the duration of their incapacity for work. It therefore considers that it would be desirable to delete from the definition of the term "accident" in section 2 of the draft text the terms "or results in that worker being incapacitated for work for more than three consecutive days excluding the day of the accident and any Sunday, or if Sunday is not a rest day, one rest day", particularly since section 36(2) of the draft text already provides for a waiting period of three days for the payment of cash benefit when the incapacity lasts for less than three weeks.

The Committee hopes that the Work Injury Benefits (Insurance) Scheme Bill, in its final version, will take into account the above comments and that it will also take into consideration the other points raised by the ILO in its communication dated 12 October 1990, and in particular point 1(b) concerning the extension of the definition of the term "accident" in order to include commuting accidents. It also hopes that it will be possible to adopt the above draft text in the near future in order to give full effect to the Convention. It requests the Government to supply information on any progress achieved in this respect and to supply the text of the Act when it has been adopted.

2. The Committee recalls that, in its previous report, the Government stated that it had the intention of immediately updating

the Workmen's Compensation Act which is currently in force with a view to meeting the requirements of Article 5 of the Convention, as well as raising the level of payments for medical, surgical or pharmaceutical aid in the event of industrial accidents, in order to give better effect to Articles 9 and 10 of the Convention. The Committee would be grateful if the Government would indicate in its next report whether the above amendments have been adopted.

The Committee also wishes to draw the Government's attention to the possibility of availing itself of the technical assistance of the Office for the implementation of the new system of compensating industrial accidents.

Myanmar (ratification: 1956)

With reference to its previous comments, the Government indicates that a newly redrafted version of the Workmen's Compensation Act has been submitted to the Laws Scrutiny Central Body for final review and that it is expected to be adopted in the near future in line with the suggestions made by the Committee. It therefore once again expresses the hope that the revised Act will be adopted shortly so as to provide, in particular:

(a) in accordance with Article 5 of the Convention, that the compensation payable to the injured workman or his dependants, where permanent incapacity or death results from the injury, shall be paid in the form of periodical payments, provided that it may be wholly or partially paid in a lump sum if the competent authority is satisfied that this will be properly utilized;

(b) in conformity with Article 10, that no maximum amount shall be fixed for the supply and normal renewal of such artifical limbs and surgical appliances as are recognized to be necessary.

The Committee requests the Government to indicate any progress achieved in this respect.

New Zealand (ratification: 1938)

The Committee takes note of the observation made by the New Zealand Council of Trade Unions according to which, under the new Accident Rehabilitation and Compensation Insurance Act of 1992 and its Regulations, victims of industrial accidents are now required to bear part charges for the necessary medical and other treatment, which would be contrary to Article 9 of the Convention. It refers in particular to section 27 of the Act according to which the Accident Rehabilitation and Compensation Insurance Corporation is only required to "contribute" to the cost of treatment and other services in respect of a personal injury "to the extent required or permitted by regulations made under this Act" and shall not "make any payment" unless it is satisfied that the treatment and other services involved are necessary and appropriate and not excessive in number or duration. The Council of Trade Unions adds that under section 28 of the said Act the Corporation will only advance the cost of private hospital treatment on the basis that the cost is subsequently recovered from compensation payable to the injured worker or from the worker himself.

The observation made by the New Zealand Council of Trade unions was communicated to the Government for comments on 5 November 1992. In its reply dated 5 March 1993 the Government states that it is not able at present to provide its comments on the issues raised, which are not simple matters, require some considerable research and are currently being studied.

The Committee notes this statement. It wishes to recall in this respect that under Article 9 of the Convention the cost of medical, surgical and pharmaceutical aid recognized to be necessary in consequence of industrial accidents shall be defrayed either by the employer, by accident insurance institutions, or by sickness or invalidity insurance institutions, and thus that the cost of such aid or any part of it shall not be borne by the injured workman himself. The Committee hopes that the Government will not fail to provide a report for examination at its next session and that it will contain detailed information on the issues raised by the New Zealand Council of Trade Unions, as well as on any measures taken or contemplated in order to give full effect to Article 9 of the Convention. It also requests the Government to supply detailed information on the application of the new Accident Rehabilitation and Compensation Insurance Act of 1992 and its Regulations under each Article of the Convention, in accordance with the report form adopted by the Governing Body. Please also supply the text of any new regulations adopted under this Act.

Sao Tome and Principe (ratification: 1982)

With reference to its previous comments, the Committee notes with satisfaction that the new Social Security Act, No. 1/90 of 31 January 1990 introduces (section 84) the principle of the provision of compensation in the form of periodical payments in the event of permanent incapacity resulting from industrial accidents, in conformity with Article 5 of the Convention.

The Committee raises certain other questions concerning the application of the Convention in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Antigua and Barbuda, Lebanon, Sao Tome and Principe.

Convention No. 18: Workmen's Compensation (Occupational Diseases), 1925

Guinea-Bissau (ratification: 1977)

With reference to its previous observation, the Committee notes with regret from the information supplied by the Government that no progress has been made in completing the existing legislation by including a list of occupational diseases, in accordance with the provisions of Article 2 of the Convention. It recalls that in its previous report the Government stated its intention of resolving this question in the near future. In view of the importance of the question, the Committee is bound once again to insist that the void which it noted in the legislation be filled by the adoption in the very near future of a list of occupational diseases including, at least, those enumerated in the schedule appended to Article 2 of the Convention which shall be recognized as occupational diseases when they are contracted in the circumstances specified in the above schedule.

Sao Tome and Principe (ratification: 1982)

With reference to its previous comments, the Committee notes the new Social Security Act, No. 1/90, of 31 January 1990. It notes that, like the former legislation, the new Act does not contain a list of occupational diseases as set out in Article 2 of the Convention. The Committee notes, however, that pursuant to section 87(2) of the Act, diagnosis of occupational diseases is carried out by medical services on the basis of specifically defined technical standards. Furthermore, section 146(1) of Act No. 6/92 of 20 March 1992 issuing the rules on individual conditions of work requires employers to report occupational diseases and keep a record of them.

The Committee would be grateful if the Government would provide detailed information on the manner in which diagnosis of occupational diseases is carried out in practice for purposes of compensation and to provide a copy of the technical standards adopted under section 87(2) of Act No. 1/90. It trusts that the Government will not fail to take the necessary measures, in the context of the above technical standards or any other implementing regulations, to adopt in the very near future a list of occupational diseases which includes at least those contained in the Schedule to Article 2 of the Convention, setting out the diseases which are to be recognized as such in the event that they are contracted in the circumstances set out in the Schedule. In this connection, it suggests that the Government might wish to seek technical assistance from the ILO.

* * *

In addition, a request regarding certain points is being addressed directly to Djibouti.

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

Central African Republic (ratification: 1964)

The Committee notes with regret that the Government's report has not been received for the second year in succession. It must therefore repeat its previous observation which read as follows:

> Article 1, paragraph 2, of the Convention. With reference to its previous comments, which it has been making for a number of years, the Committee notes with regret that the draft Decree that was submitted to the Council of Ministers in 1982, to give effect to this provision of the Convention, has not yet been adopted. In its reports, the Government indicates that draft legislation has been drawn up to bring national law and practice into conformity with certain Conventions, including Convention No. 19, and that the constitutional procedure for the adoption of this draft legislation is under way and is following its course before the competent bodies. Copies of these draft texts will be supplied in due time. The Committee notes this statement. It hopes that the draft Decree will be adopted in the near future in order to guarantee survivors' benefits to the dependants (survivors) of a worker, a national of another State bound by the Convention, who were resident outside the Central African Republic at the time of the worker's death and who continue to be so resident, if it is proved that they were actually dependent on the worker at the time of his death.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Iraq (ratification: 1940)

The Committee takes note of the information and statistical data supplied by the Government in reply to its previous observation, which referred in particular to the conclusions and recommendations approved by the Governing Body at its 250th Session (May-June 1991) of the Committee set up to consider the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO Constitution alleging non-observance by Iraq of a number of Conventions.

1. In its previous observation the Committee asked the Government to indicate any specific contractual conditions that may affect the right of foreign workers, in particular Egyptians, engaged in sectors of strategic importance, such as arms factories, to receive compensation for industrial accidents both in Iraq or in the country of their new residence. The Committee notes in this respect the Government's statement that there are no such conditions affecting the rights of foreign workers engaged in sectors of strategic importance and that workers employed in the state sector, including arms factories, are subject to Decisions Nos. 603 and 604 of 1987, to the laws on public service and civil retirement, and to the rules of service. The Committee asks the Government to provide the texts of the said Decisions Nos. 603 and 604 and to indicate those provisions

of the above-mentioned legislation and rules that concern the right of workers to compensation in case of industrial accidents.

2. As regards payment of compensation for industrial accidents to workers residing abroad, the Committee takes note of the detailed statistics provided by the Government on the number, nationality and the amounts of compensation transferred to foreign beneficiaries for the period ending 30.6.1992. It notes, however, that, according to the Government, all payments of compensation abroad are, at the present time, frozen due to the present banking situation. The Committee would like to be informed on any measures taken by the Government to resume payment of compensation for industrial accidents to beneficiaries residing abroad accompanied by the relevant statistical data.

3. Finally, the Committee notes that the Government's report does not contain any information on a number of other questions raised in its previous observation. It therefore once again hopes that, in its next report, the Government will not fail to provide the required information on the following points:

(a) Under section 38(b)(ii) of Law No. 39 of 1971, which provides for payment of compensation abroad to an Arab citizen if he has "returned to his country at the end of his insured period of service", Arab workers who leave Iraq before their contract period has expired or who settle in a country other than their country of origin, may be refused payment of compensation due to them. Since, under the same provision, no such restrictions are applied in respect of Iraqi workers, the Committee asks the Government to indicate measures taken or contemplated to ensure equality of treatment between national and Arab workers in respect of compensation for industrial accidents, particularly in case of their residence abroad.

(b) As regards nationals of States bound by the Convention other than Arab countries, the Committee recalls that under section 38(b)(iii) of Law No. 39, no payment of benefits is made outside Iraq except under reciprocity agreements or international labour Conventions and subject to the necessary authorization under Instruction No. 2 of 1978 regarding the payment of social security pensions to insured persons leaving Iraq. Please indicate measures taken or contemplated at the level of the Iraqi Institute of Social Security to ensure without any restrictions that in all cases compensation benefits are paid to all workers who are nationals of a country bound by the Convention in their new country of residence.

(c) Please indicate whether workers who had left Iraq at the time of the war and who had no opportunity to present their requests for payment of the compensation due to them may do it now from their new place of residence abroad and, if so, in what way.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Sao Tome and Principe (ratification: 1982)

With reference to its previous comments, the Committee notes the information supplied by the Government in its reports received in March 1991 and April 1992. It also notes Act No. 1/90 of 31 January

1990 respecting social security and Act No. 6/92 of 20 March 1992 respecting individual conditions of employment.

Article 1, paragraph 1, of the Convention. The Committee notes the Government's statement to the effect that Act No. 6/92 repealed Legislative Decree No. 507 of 1958, which contained provisions which were not in conformity with the Convention since they made equality of treatment between nationals and foreign workers in respect of compensation for industrial accidents subject to a condition of reciprocity. The Committee notes, however, that under section 12 of Act No. 1/90 respecting social security the general scheme does not appear to cover foreign workers exercising an activity on the national territory unless an agreement concluded with the country of origin of the person concerned provides for such coverage. Under these conditions, the Committee is bound once again to remind the Government that Article 1, paragraph 1, of the Convention obliges any State which has ratified the Convention to grant to the nationals of any other State which has also ratified the Convention the same treatment in respect of workmen's compensation as it grants its own nationals, as of right and irrespective of the conclusion of any reciprocity agreement. The Committee hopes that the Government will be able to take the necessary measures to supplement the terms of sections 11 and 12 of Act No. 1/90 so as to guarantee to all foreign workers who are nationals of a State which has ratified the Convention, and their dependants, the protection of the legislation respecting compensation for industrial accidents under the same conditions as to its own nationals. It hopes that the Government's next report will contain information on the progress achieved in this respect.

South Africa (ratification: 1926)

In its previous comments the Committee requested the Government to provide the legislative texts concerning employment injury compensation adopted by each of the "homelands", as well as statistical information on the number and nationality of foreign workers employed in these areas.

In its report the Government states that statistics as to the number of foreign workers employed in the country or the number of accidents are not available and that the Workmen's Compensation Commissioner does not have the required information regarding the legislation adopted in the "homelands".

In this situation the Committee cannot but once again urge the Government to take the necessary measures in order to provide full information, including the above-mentioned statistical data and legislative texts, on the manner in which the Convention is applied throughout the entire territory of South Africa, including the "homelands", which are covered by the ratification of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Brazil, Cape

Verde, Djibouti, Guinea-Bissau, Islamic Republic of Iran, Lebanon, Malawi, Saint Lucia, Sao Tome and Principe, Senegal, Yemen.

Convention No. 20: Night Work (Bakeries), 1925

Bolivia (ratification: 1973)

See under Convention No. 1.

Chile (ratification: 1933)

The Committee notes the information supplied by the Government in its last report in reply to its own previous comments, and in reply to the allegations made by the trade unions of workers in bakeries in the VIth and VIIth regions (SINTRAPAN), concerning the absence of regulations to establish and regulate prohibitions on night work in the bakeries sector, in accordance with the provisions of the Convention. It also notes the observations contained in a communication of 13 July 1992 from the National Confederation of Trade Unions of Bakery Workers (CONAPAN), urging the competent authorities to take the necessary action to implement the Convention, and the Government's reply.

The Committee notes in particular that whereas in its previous report the Government had stated its intention to pursue the consultations on the need to adopt new measures to give effect to the Convention, in its latest report it states that it had convened a tripartite meeting with representatives of the employers' and workers' organizations concerned and had informed them about its disposition to denounce the Convention; and that it would further hopefully consult in the course of the year 1992 the representatives of these organizations on the proposal for the denunciation within the framework of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

It ventures to point out, in any case, that until a denunciation is registered and becomes effective, one year later, the Government remains bound by the Convention. The Committee trusts that the Government will take every appropriate measure to give effect to the provisions of the Convention and requests it to keep the Office informed of any developments in this respect.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, a request regarding certain points is being addressed directly to Peru.

Convention No. 22: Seamen's Articles of Agreement, 1926

Germany (ratification: 1930)

In its last observation, the Committee referred to comments made by the Public Service, Transport and Communications Union (GODTV) as to ships registered in the German International Maritime Shipping Register (ISR). The GODTV had noted that the application of the Convention was no longer self-evident for a large number of seafarers not domiciled or ordinarily resident in Germany, among whom its implementation was no longer supervised and there were many instances of contraventions. The Committee now notes a further observation from the German Union of Salaried Employees (DAG), that seafarers are employed on ISR ships contrary to the Seamen's Act provisions as to articles of agreement; the DAG asks the Government for details of the legal position especially in the light of a decision of the Lübeck Labour Court dated 7.8.1990, which declared void the articles of agreement of certain Indian seafarers on board an ISR ship.

The Government indicates that foreign seafarers often are subject to German legislation and collective agreements made by German employers and trade unions, whilst it agrees that the ISR Act, depending on all the circumstances, makes easier the application of foreign labour law to the employment relations of seafarers on German-registered ships but not domiciled or ordinarily resident in Germany. It states that all mandatory provisions, including sections 13 and ff. of the Seamen's Act, regarding articles of agreement are applied in respect of foreign seafarers. The provisions are implemented without difficulty and no cases of infringements are known. However, if the labour legislation of another State is applied by virtue of the ISR Act so far as "private law" questions such as termination are concerned, then German legislation in the sense of the Convention can have no influence. The Government states further that in particular section 11 of the Mercantile Marine Office Ordinance (MMOO) is applied to all engagements, and that no contrary order has been issued.

The Committee would be grateful if the Government would kindly clarify (a) precisely which of the provisions of the Seamen's Act implementing the Convention are applied to ISR ships - including, for example, section 11 concerning the sea service book (Articles 5 and 14 of the Convention), all of sections 13 to 22 concerning the formalities for signing on (Articles 3, 4, 7 and 8), and section 24 concerning particulars to be included in the articles (Article 6); and (b) especially in the light of section 9(2) of the Seamen's Act and section 11 of the MMOO, how compliance with the Convention is ensured (Article 15).

As regards the termination of articles, the Committee has noted that there appears to be no guarantee that the Convention's requirements (Articles 9 to 13) are met in the case of certain crew members of ISR ships. It recalls that the Convention applies to all seagoing vessels registered in the country and the owners, masters and seafarers of such vessels (Article 1). It would therefore be grateful if the Government would indicate what measures are being taken or proposed in this respect. The Committee refers also to its earlier observations concerning Article 9(1) and hopes the Government will provide information in future reports on further progress in reducing to not less than 24 hours the period of notice for termination by either party while in port of an agreement for an indefinite period.

In addition, the Committee has noted the terms of collective agreements forwarded by the GODTV and the Government, which seem in some cases at least to give preference to the laws of the country supplying the seafarers. It hopes the Government will soon resolve its doubt as to the legality of these agreements and that it will supply full details. The Committee finally notes with interest the global statistics of seafarers signing on provided under Part V of the report form: it would be grateful if in future the Government would break them down so as to show the numbers not domiciled or ordinarily resident in Germany.

Liberia (ratification: 1977)

Further to its general observation, the Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its earlier comments, the Committee hopes that the Government will take the necessary action to ensure the application of Articles 3, paragraph 4, 5, paragraph 2, 9, paragraph 2, 10(a) and (b), 13 and 14, paragraph 2, of the Convention.

Mauritania (ratification: 1963)

Further to its previous observations, the Committee notes the information supplied by the Government and the results of the direct contacts mission conducted in May 1992. The Committee had been drawing the Government's attention for some years to the fact that Article 9, paragraph 1, of the Convention (possibility for the seafarer of terminating an agreement for an indefinite period in any port where the vessel loads or unloads), Article 12 (determining the circumstances in which the seafarer may demand his immediate discharge) and Article 14, paragraph 2 (right of the seafarer to a certificate) are not reflected in the national legislation. It notes with interest that the Government plans to have a Bill drawn up to deal with matters still pending, and also that the ILO has agreed in principle to the Government's request for technical assistance for a more general revision of the Merchant Marine Code.

Norway (ratification: 1940)

In previous comments, the Committee noted the observation of the Norwegian Seamen's Union, that Act No. 37 of 31.5.85 had removed certain persons from the protection of the provisions relating to articles of agreement, and that this was a serious contravention of the Convention. The Government has stated that those persons - who are, for example, musicians and chiropodists - cannot be regarded as seamen in terms of the Convention, so that there is no conflict with the Convention.

The Committee notes from the terms of Act No. 37 that the persons concerned must be (i) neither residents nor nationals of Norway; (ii) hired by a foreign employer; (iii) engaged to attend on passengers; (iv) employed on a cruise ship. It notes that the same persons are nevertheless considered as seafarers or members of crew for certain other purposes of the Act.

The Committee recalls that the Convention does not refer to these factors, although Article 2(b) does state that it applies (subject to certain other exclusions only) to "every person employed or engaged in any capacity on board any vessel and entered on the ship's articles". It would be grateful if the Government would give further information as to the occupations of persons concerned by the provision in question and confirm that, if any one of the four factors referred to is absent, the person concerned will benefit from the legislation applying the Convention. It would also be glad if the Government would confirm whether - subject only to the exceptions laid down in the Convention - all persons, no matter what their residence or nationality or the basis of their engagement, who carry out work on board ship related to navigation or who may normally be regarded as crew members (including, for example, wireless operators) are in fact covered by that legislation. It hopes the Government will include in its next report the statistical and other information requested in Part V of the report form.

The Committee has noted, finally, the observation of the Norwegian Shipping and Offshore Federation, that both they and the unions wish for greater restriction of possible deviations from the Seamen's Act through collective agreements.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Uruguay.

Convention No. 23: Repatriation of Seamen, 1926

Ireland (ratification: 1930)

Article 3, paragraphs 1 and 4, of the Convention. In its previous comments, the Committee pointed out that section 32 of the Merchant Shipping Act of 1906 does not cover the right to repatriation of (a) a seafarer who leaves the ship in a Commonwealth country, or (b) a foreign seafarer who joins the ship in one foreign port and leaves it in another. The Committee recalled that the first of these exceptions conflicts with Article 3, paragraph 1, and the second, when applied to a foreign seafarer who joins a ship in his own country, conflicts with paragraph 4.

The Committee notes from the Government's latest report that the urgency of revising those provisions of the Act in conflict with the provisions of the Convention was emphasized to the authority concerned with the review of the Act. Since such revision has been under way for many years, the Committee trusts that the next report will be able to indicate that the matter has now been resolved. In the meantime, it hopes the Government will indicate any practical difficulties met with in the application of the Convention.

Liberia (ratification: 1977)

The Committee notes with regret that the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on measures to apply Article 5 of the Convention, to which the Committee referred in its previous observation.

Philippines (ratification: 1960)

In previous comments over several years the Committee noted that, where a vessel is unable to navigate, the members of the crew have no other right than to collect wages earned, whereas in cases of shipwreck all rights are extinguished (sections 640-5, 641 and 643 of the Code of Commerce). Thus, the requirement of Article 4(b) and (d) of the Convention that the expenses of repatriation should not be a charge on the seafarer where he is left behind by reason of shipwreck or discharge for a cause for which he is not responsible is not met in the legislation. The Committee notes that, as a temporary measure and pending the adoption of amendments to sections 641 and 643 of the Code, the Government has been referring in practice to the Philippine Overseas Employment Administration (POEA) Rules and Regulations and the Standard Employment Contract (SEC) for Seafarers on Board Foreign Flagged Vessels, which it considers contain equivalent provisions. The Committee notes the optimism expressed in the Government's report that the said amendments will be taken up shortly by the newly elected legislature and thus give full effect to the provisions of the Convention. It stresses the need to ensure that the legislation complies with the Convention and hopes the next report will include details, as well as the information on practical application of the Convention requested in Parts III and IV of the report form and up-to-date copies of the POEA and SEC documents referred to.

Convention No. 24: Sickness Insurance (Industry), 1927

Chile (ratification: 1931)

The Committee notes the information supplied by the Government in its report, and the statistical information on compulsory sickness insurance.

Article 7, paragraph 1, of the Convention. In reply to the Committee's previous comments on this provision of the Convention, which requires employers to share in providing the financial resources of the sickness insurance scheme, the Government recalls that the change provided for in Legislative Decree No. 3501 of 1980, whereby insurance contributions are paid by the workers, is merely a change in the manner of payment of the contribution, as the cost is still borne by the employer in view of the fact that the same instrument provides for an increase in the cash remuneration of the worker. In other words, the change does not mean a reduction in the amount of the worker's cash remuneration, as the above Legislative Decree provides for an increase in his cash remuneration. The Government therefore considers that there is no point in specifying who pays the contributions because, when wages are negotiated, the employer always takes account of the worker's gross wage and the worker, the net wage. Consequently, whether the contributions are borne by the worker or the employer, the net wage and the pension of the worker are not affected, neither is the amount borne by the employer. Only a change in the rate of contributions can affect these variables.

The Committee takes note of this information. It is bound, however, to stress that, in order to give full effect to this provision of the Convention, employers must share directly in providing the financial resources of the sickness insurance scheme for employees. The Committee therefore once again expresses the hope that the Government will take the necessary measures to give full effect to this provision of the Convention.

Haiti (ratification: 1955)

With reference to its previous comments, the Committee notes in particular that, following the adoption of the Decree to institute the National Protection and Social Security Office, published in *Le Moniteur* on 11 January 1990, the evaluation report and recommendations concerning the application of a social security scheme, prepared in the context of the technical assistance mission carried out by the ILO in 1988 have been revised and updated. In this respect, the Committee notes with interest that the Government has requested the technical assistance of the ILO, particularly with regard to sickness insurance. The Committee therefore hopes that this assistance will be provided when circumstances permit and that, with the assistance of the ILO, the Government will be able progressively to set up a system of general sickness insurance, in accordance with the Convention. It requests the Government to report any progress achieved in this respect.

* * *

In addition, a request regarding certain points is being addressed directly to Djibouti.

Convention No. 25: Sickness Insurance (Agriculture), 1927

Chile (ratification: 1931)

See under Convention No. 24.

Haiti (ratification: 1955)

See under Convention No. 24.

Convention No. 26: Minimum Wage-Fixing Machinery, 1928

Austria (ratification: 1974)

The Committee notes the information given in the Government's report. It further notes the comments made by the Federal Chamber of Labour expressing its concern over the increasing tendency of employers to reduce the scope of collective agreements by withdrawing negotiating mandates and thus increasing the possible use of statutory collective agreements.

The Committee recalls the obligation, according to Article 1 of the Convention, to create or maintain machinery whereby minimum rates of wages can be fixed for workers employed in certain of the trades or parts of trades in which no arrangements exist for the effective regulation of wages by collective agreement or otherwise and wages are exceptionally low. It requests the Government to supply information on the consequences of the withdrawal of negotiating mandates of employers on the fixing of minimum rates of wages.

Chad (ratification: 1960)

The Committee refers to its previous comments in which it expressed the hope that in the near future the Government would be able to revise the minimum wage rates fixed in 1978 which have not been revised since owing to the economic difficulties created by the war. It notes from the Government's report that the proposed increase of minimum wages has been shelved as part of the structural adjustment programme imposed by the IMF and the World Bank.

The Committee refers to paragraphs 428 and 429 of its General Survey of 1992 on minimum wages, in which it recalls that the fundamental and ultimate objective of the instruments in question is to ensure to workers a minimum wage that will provide a satisfactory standard of living for them and their families, and that this fundamental objective should constantly be borne in mind when, in certain countries, structural adjustment programmes are being applied.

The Committee asks the Government to indicate any developments in this respect and to provide information on the participation of the employers and workers concerned in decisions concerning the fixing of minimum wage rates, including decisions to freeze minimum wages.

Colombia (ratification: 1933)

The Committee notes the observations made in April 1992 by the General Confederation of Labour (CGT) concerning the payment of wages at less than the legal minimum rate to teachers on contract in the Department of Santander, a copy of which was communicated to the Government in May 1992. It notes that the Government does not give its comments on this issue in its report. The Committee requests the Government to communicate information on the enforcement of the minimum wage rates with particular reference to the above-mentioned workers.

The Committee is also addressing a direct request to the Government concerning certain points.

Guinea (ratification: 1959)

The Committee notes the information supplied by the Government and the comments on the application of this Convention communicated by the General Union of Workers of Guinea (UGTG), a copy of which was sent to the Government in November 1992 for its comments.

The UGTG indicates that, in its view, the wage scales for public sector employees are not sufficient to cover the living costs of a worker's family of five members and that the new Labour Code of 1988 is applied without any subsequent texts having been issued. The Committee notes that the Government has not sent its comments on the above-mentioned observations of the UGTG.

The Committee notes that under section 211 of the Labour Code the minimum hourly wage rate is fixed by decree. It also notes the Government's indication in its report that it intends to promote free wage bargaining in enterprises and to take account of the results in fixing a guaranteed inter-occupational minimum wage. The Committee asks the Government to provide detailed information on the application of the minimum wage-fixing machinery provided for in the new Code, particularly as regards consultation and participation of employers' and workers' organizations in equal numbers and on equal terms (Article 3, paragraph 2(1) and (2), of the Convention). It asks the Government also to provide information on the results of the application of this machinery in accordance with Article 5, and in particular copies of decrees issued under section 211 of the Labour Code.

Hungary (ratification: 1932)

The Committee notes the comments of the National Confederation of Hungarian Trade Unions on the application of the Convention, enclosed with the Government's report, to the effect that, despite the adoption of new legislation, there are many cases of employers paying wages which are lower than the prescribed rates, for economic reasons, in the water supply, forestry and agricultural sectors.

The Committee has addressed a direct request including comments on this matter to the Government.

India (ratification: 1955)

1. The Committee recalls that in its previous comments, it considered the comments made by the Bharatiya Mazdoor Sangh (BMS) workers' organization concerning, inter alia, the application of a series of recommendations that had been made by the Labour Ministers' Conference of the States of the Union. The Committee then noted the Government's indication that it was considering amendments to the Minimum Wage Act, 1948, to provide for the review of minimum wages at intervals not exceeding two years, or when there are variations in the consumer price index, and also that the Government was examining amendments to increase the penalties for violations of the Minimum Wages Act. The Committee therefore requested the Government to indicate the progress achieved in amending the Minimum Wage Act in line with the above recommendations.

The Committee notes that, in its latest report, the Government simply states in response to the above comments that a number of amendments to the Minimum Wages Acts are under the active consideration of the Government. It hopes that the next report of the Government will contain detailed information on any concrete steps taken in this respect.

2. With reference to the comments submitted previously by the BMS concerning the minimum wage of cinema workers in West Bengal and the comments submitted by the Steel Workers' Federation of India, respecting the application of some provisions of the Convention, the Committee refers to the request that is being addressed to it directly.

Morocco (ratification: 1958)

The Committee notes the information supplied by the Government in its reports and the discussion that took place on the matter in question at the Conference Committee in 1992.

Article 3, paragraph 2(1) and (2), of the Convention. In reply to the comments made by the Democratic Confederation of Labour and the General Union of Moroccan Workers to the effect that the Government fixes minimum wages for the different sectors unilaterally and without consulting workers' organizations, and that the Central Committee on Wages and Prices, established under the Dahir of 31 October 1959, is no longer in operation, the Government indicates in its reports that it never fails to consult employers' and workers' organizations concerning the fixing of minimum wages, in particular through tripartite committees set up as part of the dialogue between the Government and the social partners, and that the employers' organizations and the trade unions, including the two complainant organizations, were consulted before the most recent minimum wage adjustments in 1991 and 1992. The Committee notes this information and asks the Government to specify the composition and operation of these tripartite committees and to provide the provisions of the law under which they were established together with detailed information on the way they operate in practice.

Article 4, paragraph 1. With regard to violations of minimum wage provisions, which were also referred to in the above-mentioned comments, the Government states that, in 1992, the labour inspectorate recorded 1,158 violations of the legal provisions on wages. The Committee notes this information and asks the Government to give more detailed information on the operation of the inspection service, including, for example, the number of violations of minimum wage provisions recorded, the records drawn up by inspectors and the sanctions applied.

New Zealand (ratification: 1938)

The Committee notes the information supplied by the Government in its report as well as the observations made by the New Zealand Council of Trade Unions (CTU) on the application of the Convention, and the observations made by the New Zealand Employers' Federation on the application of Convention No. 99.

The CTU points out in its observations that the minimum wage rates have not been changed since September 1990, and that the consultations with the workers' organization concerning the minimum wage have not been substantial. It also considers that the scope (the coverage of workers under 20 years of age) and the enforcement of minimum rates are unsatisfactory.

The Committee notes that, although the observations made by the CTU were supplied with the Government's report, the report does not contain the Government's observations in response to these comments. It further notes that the Minimum Wage Act 1983 applies to workers "of any age" (section 2 of the Act) and includes a section concerning annual review of minimum wages (section 5).

The Committee requests the Government to supply information concerning the manner in which the employers and workers are associated in the operation of the minimum wage-fixing machinery (including the decisions not to change the current rates), in accordance with Article 3, paragraph 2(2) of the Convention, and to indicate whether minimum wage rates have been fixed as regards workers under 20 years of age.

Rwanda (ratification: 1962)

1. Article 4 of the Convention. With reference to its previous comments concerning the draft revision of the Labour Code, which contains provisions on sanctions applicable in the event of non-observance of established minimum wage rates, the Committee notes the Government's statement that the situation remains unchanged because the Government's attention has been entirely taken up by urgent problems such as the armed conflict besetting the country since October 1990, economic recovery through structural adjustment and political problems.

The Committee hopes that the Government will take the necessary measures in the very near future to give effect to this provision of the Convention. It asks the Government to provide information on measures taken to this end.

2. The Committee also notes the observation submitted in a letter of 19 December 1992 by the Rwanda Central Organization of Workers' Trade Unions (CESTRAR) concerning the participation of employers and workers in minimum wage fixing. The CESTRAR has observed a positive trend, and particularly the imminent establishment of machinery for tripartite cooperation in the determination of working conditions, including minimum wages, and, pending its establishment, the intention to set up an informal tripartite group. The Committee hopes that the Government will provide information on any developments in this respect.

The Committee also refers to a request addressed directly to the Government concerning the question of consultation.

South Africa (ratification: 1932)

1. The Committee referred in the previous comments to the Temporary Removal of Restrictions on Economic Activities Act of 1986, under which the State President may, by proclamation, suspend, or grant exemption from, the provisions of any enactment having force of law. It requested the Government to indicate measures taken to ensure that the application of the provisions of the Convention is not affected by proclamation made under the Act of 1986.

The Committee notes the Government's indication that the objective of this 1986 Act can better be achieved by way of exemption which is subject to consultation between the parties concerned. It recalls that Article 3, paragraph 2(3), of the Convention requires minimum rates of wages to be binding on the employers and workers concerned and does not allow abatement except by collective agreement with the general or particular authorization of the competent authority. The Committee also notes that section 2 (concerning consultation) of the 1986 Act provides only for optional consultation, inter alia, with persons representing the class of persons concerned.

The Committee requests the Government to indicate any measures taken or contemplated to ensure the application of the provisions of the Convention, and in particular of Article 3, paragraph 2(3), with regard to the proclamation made under the 1986 Act. It also requests the Government to provide information on any proclamation made under this Act that involves suspension of or exemption from enactments concerning the minimum rates of wages.

2. With reference to the previous comments concerning the fixing and implementation of the minimum wages in the metal industry, the Committee notes that the Government refers to the latest Iron, Steel and Metallurgical Industry's Main Industrial Council Agreement concluded on 3 September 1991 and provides a list of the representative employers' amd workers' organizations concerned. The Government indicates that a copy of this agreement, which expired on 30 June 1992, has already been submitted to the Committee and that no collective agreement fixing minimum wages is currently in force in this industry, a new agreement still being under negotiation.

The Committee notes this information. It also notes that the copy of the above-mentioned agreement has not been received.

The Committee notes the information provided in the Special Report of the Director-General on the Application of the Declaration concerning Action against Apartheid in South Africa (ILC, 79th Session 1992) according to which an agreement in the steel industry between the National Union of Metalworkers of South Africa (NUMSA), the Confederation of Metal and Building Unions (CMBU) and the Steel and Engineering Industries Federation of South Africa (SEIFSA) included wage increases.

The Committee again requests the Government to communicate copies of any collective agreements fixing minimum wages currently in force in the metal industry. It also requests the Government to indicate any measures taken or envisaged for the regulation of minimum wages during the period for which there is no collective agreement in force for this purpose.

3. The Committee notes the Government's statement that the areas of Transkei, Bophuthatswana, Venda and Ciskei can be approached directly for information concerning the application of the Convention. With reference to the general observations it has been making, the Committee can only reiterate its request that the Government should provide full information on the application of the Convention in these areas.

Turkey (ratification: 1975)

The Committee notes the observations made by the Turkish Confederation of Employers' Associations (TISK) which were communicated with the Government's report. The TISK states that the rate of increase of the minimum wage has been above the rate of increase in consumer prices. It also expresses dissatisfaction with the factors taken into account at the latest adjustment of the minimum wage which took effect on 1 August 1992. The Committee would be grateful if the Government would indicate the means by which the employers and workers concerned are associated with the operation of the minimum wage-fixing machinery in accordance with Article 3, paragraph 2(2), of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Angola, Argentina, Bahamas, Barbados, Belize, Central African Republic, Chile, China, Colombia, Comoros, Dominica, Dominican Republic, Gabon, Germany, Ghana, Grenada, Guinea-Bissau, Hungary, India, Italy, Mali, Mauritania, Mauritius, Myanmar, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, Solomon Islands, South Africa, Sudan, Togo, Tunisia, Turkey, Uganda, Zaire.

Information supplied by Ireland, Madagascar and Venezuela in answer to a direct request has been noted by the Committee.

Convention No. 27: Marking of Weight (Packages Transported by Vessels), 1929

Requests regarding certain points are being addressed directly to the following States: Bangladesh, France, Honduras, Venezuela.

Information supplied by Myanmar in answer to a direct request has been noted by the Committee.

Convention No. 29: Forced Labour, 1930

Belarus (ratification: 1956)

Further to its previous comments the Committee notes with satisfaction that section 204 of the Penal Code concerning persons "leading a parasitic way of life" was repealed by Act No. 1233-XII of 14 February 1991.

Brazil (ratification: 1957)

The Committee notes the discussion that took place in the Conference Committee in 1992 as well as the Committee's concern at the seriousness of the problems discussed. With regard to the statement made by the Government representative, the Committee notes with interest the detailed information supplied by the Government in its report.

The Committee has referred to the comments made in 1986 by the Latin American Central of Workers (CLAT) and the International Confederation of Free Trade Unions (ICFTU) and those presented in 1991 by the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW) and the Association of Labour Inspectors (AGITRA) of Brazil, alleging that thousands of workers, including minors, are subjected to forced labour and debt bondage, that hiring is conducted on the basis of false promises and that violence is used to retain or punish workers who attempt to escape, in various sectors of the rural economy and in mining.

In its previous observation, the Committee referred in detail to the cases reported by the above organizations and observed that their allegations concurred. It also observed that the instances cited constituted serious violations of Conventions Nos. 29 and 105 and urged the Government to reinforce the measures being implemented to put an end to the alleged practices and to remedy the shortcomings that have been noted in the application of the Conventions on forced labour.

The Committee notes the comments presented by the National Confederation of Agricultural Workers (CONTAG) in June 1992, a copy of which was sent to the Government on 10 July 1992 for it to make any comments it deemed appropriate. The allegations concern the practice of "slave" labour in the Medasa distillery in the municipality of Madeiros Neta in the State of Bahía, where cane workers are brought by means of false promises as to wages and other working conditions and are forced to remain until the end of the harvest, are paid considerably less than the amount agreed upon, and work in subhuman conditions. These practices were denounced by a group of workers who managed to escape.

The Committee notes the information supplied by the Government in its report, and particularly the list of prosecutions for forced labour brought under section 149 of the Penal Code which provides for a penalty of imprisonment for those who reduce a person to conditions similar to those of slavery, and various provisions of the labour legislation concerning wages and other conditions of work. The list includes several of the estates, enterprises and distilleries referred to by the trade union organizations in their comments, including the Medasa distillery referred to by the CONTAG in its comments of June 1992. The Committee also notes that inspection visits are being conducted through the action of the National Department of Labour Inspection and that some of the reports have been sent by the Government.

The Committee notes with interest the programme to eradicate forced labour and hiring on the basis of false promises (PERFOR), established by a Decree of the President of the Republic, of 3 September 1992, which aims to eradicate from the whole of the national territory all forms of work which may be considered as forced labour, that is, work which is carried out under threat or with the use of violence or which reduces the worker to conditions similar to those of slavery (section 2.I). To achieve the programme's objectives, measures will be taken to improve working conditions in the rural and urban sectors, inspection, the application of sanctions in the event of infringements and the legal instruments to suppress forced labour and hiring on the basis of false promises (section 3).

The programme will be directed by an interministerial committee and implemented by authorities of the Federal System of Labour Inspection, the Federal Police and other state bodies. The Committee also notes that the duties of the interministerial committee responsible for the programme include the preparation of information to be supplied to the ILO when it so requests.

The Committee notes the Government's statement in its report that it is very concerned at the existence of forced labour in certain States of the country, and that major efforts are being pursued to eliminate or at least reduce the frequency of occurrences of forced labour. It also indicates that workers', employers' and other bodies that have cooperated in denouncing forced labour practices are not represented in the programme to eradicate forced labour but that the Ministry of Labour is redefining and broadening the programme's activities in order to involve them.

The Committee notes the Government's concern and the measures being implemented to eliminate existing problems and ensure the application of the Conventions on forced labour. It notes, however, from the various comments presented by workers' organizations, that systematic action commensurate with the dimensions and gravity of the problems is called for, and that the sanctions imposed must be really effective and strictly applied. In this connection, the Committee observes that, according to the allegations presented by the AGITRA (Association of Labour Inspectors) in 1991, "forced labour is increasing enormously in the country, while labour inspection is dwindling". Furthermore, the Committee notes the comments made by the AGITRA on 28 February 1993, a copy of which has been communicated to the Government. In these comments the AGITRA alleges that the many successive changes which have taken place in the Labour Ministry have resulted in the discontinuance of programmes, including the rural labour inspection programme. The AGITRA furthermore refers to the programme to eradicate forced labour and hiring on the basis of false promises (PERFOR) which, in its view, has been a "mere bureaucratic measure" and even a step backward, if compared with the "Termo de Compromisso", since that agreement provided for the participation of the National Confederation of Agricultural Workers (CONTAG).

The AGITRA also points out, however, that some isolated measures have been taken, for instance in the case of the enterprise Resiflora in Ceidreira, denounced by the AGITRA and mentioned by the Committee of Experts in its observation of 1992; the entrepreneur has been indicted for imposing "slave labour".

In its comments the AGITRA refers to the case of an estate of Campo Bom, where the inspectors of the Division of Labour Relations (DRT) were able to note that 30 persons, including several children, worked in irregular labour conditions, tantamount to those of slave labour. The Committee asks the Government to provide information on the measures being taken by the governments of the different States, particularly those where the greatest number of cases of forced labour have been observed, since, as the Government has indicated, the size of the territory makes it difficult to prevent and suppress violations of the national legislation.

The Committee hopes that the Government will continue to supply information on the measures taken, and particularly on the progress and outcome of the proceedings brought for forced labour referred to in the list provided by the Government. It would also appreciate information on the sanctions imposed and the measures to strengthen labour inspection. It also requests the Government to provide particulars of the activities carried out in the context of the programme to eradicate forced labour.

Burundi (ratification: 1963)

The Committee notes with interest the information supplied by the Government in its report. It notes the text of the Constitution of March 1992 and the other texts appended to the Government's report. It notes from the Government's report that work is in process to harmonize the legislation with the Convention.

The Committee hopes that, in view of its detailed comments on the Convention in 1992, the Government will take all necessary measures in the near future and that it will provide information on the following points:

1. In its previous comments, the Committee emphasized, in connection with Ordinances Nos. 710/275 and 710/276 of 1979, that it was necessary to embody the voluntary nature of agricultural work in legislation.

The Committee notes the Government's indication that, as part of the liberalization and labour market promotion process, the constraints on farmers would be removed, in particular, through changes in the above-mentioned ordinances and that work has already begun to adapt and harmonize these texts. The Committee asks the Government to provide the texts amending or repealing the provisions of the ordinances as soon as they have been adopted.

2. The Committee drew attention to certain texts on compulsory cultivation, porterage and public works (Decree of 14 July 1952, Ordinance No. 2186 of 10 July 1953, Decree of 10 May 1957) and advised the Government to have them expressly repealed.

It notes the Government's statement that formal repeal of these texts is warranted, mainly because they are of a colonial nature and have fallen into disuse, that the repeal procedure has been initiated and that the outcome will be communicated in due course.

3. The Committee noted that Legislative Decree No. 1/16 of 29 May 1979 establishes compulsory community development work enforceable by sanctions.

The Committee notes the Government's statement that the procedure to abolish the penalty provided for in section 5 of the above Legislative Decree is still in process, having been suspended owing to a heavy political workload.

With regard to the direct participation of the populations concerned in the preparation of work programmes, the Committee notes the Government's indication that this principle is laid down in article 29 of the Constitution and expanded on in the community law (Legislative Decree 1/011 of 8 April 1989, sections 14 and 21).

The Committee asks the Government to provide the text abolishing the penalty prescribed in section 5 of Legislative Decree No. 1/16 of 29 May 1979 as soon as it has been adopted.

4. The Committee referred to sections 340 and 341 of the Penal Code prescribing penalties for begging and vagrancy. It notes the Government's statement in its report that these provisions cannot be applied to persons who are merely unemployed and are seeking work. It also notes that three ordinances on the liberalization of employment have been adopted (Ministerial Ordinances No. 660/161 of 3 June 1991, No. 660/086/92 of 17 February 1992 and No. 660/351/91). The Committee requests the Government to provide a copy of these texts.

The Committee also notes the Government's statement that a vocational retraining programme has just been adopted to assist unemployed persons so that they are not reduced to begging and vagrancy. The Committee asks the Government to provide information on this programme.

5. The Committee referred in a direct request to Decree No. 100/003 of 3 January 1990 and Presidential Decrees No. 1/106 of 25 October 1967 (section 43) and No. 1/111 of 10 November 1967 (section 44) respecting the conditions for the resignation of certain persons working in the service of the State. The Committee hopes that in the work currently being done on the legislation, it will be possible to give statutory effect to the right of persons in the service of the State to leave their employment within a reasonable period or by giving notice.

Central African Republic (ratification: 1960)

1. In its comments, the Committee has been referring for many years to the Government's statement that draft ordinances have been drawn up with a view to repealing Ordinance No. 66/004 of 8 January 1966, respecting the suppression of idleness (as amended by Ordinance No. 72/083 of 18 October 1972), section 11 of Ordinance No. 66/038 of 3 June 1966, respecting the supervision of the active population, and sections 2 and 6 of Ordinance No. 75/005 of 5 January 1975, making the performance of commercial, agricultural and pastoral activities compulsory. The Government indicated that the Ordinances in question have fallen into abeyance and are no longer applicable, and that the draft texts to repeal them formally had to be submitted to an expanded committee of the social partners. The Government also stated that it was aware of the need to bring its legislation and practice into conformity with international labour Conventions.

The Committee notes the information supplied by the Government in its last report to the effect that Ordinance No. 66/004 of 8 January 1966, respecting the suppression of idleness, is covered by a Bill to repeal it and that an expanded committee does in fact exist and is called the Legislative Commission.

The Committee takes due note of this information. In view of the fact that the Government has been referring to texts to repeal the above Ordinances for many years, the Committee hopes that the Government will supply the text of the Bill to repeal Ordinance No. 66/004 of 8 January 1966, respecting the suppression of idleness when adopted and that it will supply information on the other amendments which are necessary to give effect to the Convention on these points.

2. In its previous observations, the Committee also referred to section 28 of Act No. 60/109, respecting the development of the rural economy, which provides that minimum surfaces for cultivation shall be fixed for each rural community.

The Committee noted the Government's indications that these provisions were intended to supply a technical framework and basic services to farmers in order to increase their production, improve their standard of living, encourage them to expand the areas under cultivation and increase efforts in agricultural activities, since the freedom to work must not mean the freedom to do nothing. The Committee pointed out that the Convention authorizes recourse to compulsory cultivation only for preventing famine or a food deficit, and always under the condition that the food or produce shall remain the property of the producers. It also pointed out that any work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily is incompatible with the Convention.

The Committee notes that the Government's report does not contain information in this respect and trusts that the Government will make every endeavour to take the necessary measures in the near future.

Côte d'Ivoire (ratification: 1960)

In its previous comments, the Committee referred to sections 24, 77 and 82 of Decree No. 69-189 of 14 May 1969, issued under sections 680 and 683 of the Code of Criminal Procedure, which provide for the hiring-out of prison labour to private persons.

With regard to the Government's reference to semi-freedom, the Committee notes that this is governed by sections 25, 83 and 87 of Decree No. 69-189 and allows prisoners to work for private enterprises under the terms of employment contracts which have been freely concluded by them with their employer and under the normal conditions of work as regards, for example, occupational accidents. Such is not the case of prisoners governed by sections 24, 77 and 82 of the Decree.

The Committee notes that the Convention, in Article 2, paragraph 2(c), explicitly prohibits persons, from whom work is exacted as a consequence of a conviction in a court of law, from being placed at the disposal of private individuals, companies or associations. Only work performed under the conditions of a free employment relationship can be considered to lie outside the scope of this prohibition, which necessarily requires the formal consent of the person concerned and, in view of the circumstances in which this consent is given, guarantees and safeguards with regard to wages and social security which make it possible to consider that it is a real free employment relationship.

The Committee requested the Government to indicate the measures that have been taken or are under consideration in this respect. The Committee notes that the Government's report does not contain information in this regard and hopes that the Government will soon supply the required information.

Cuba (ratification: 1953)

The Committee notes that, in its conclusions, the Conference Committee decided in 1992 to re-examine the problems relating to the application of the Convention at its next session.

The Committee notes the Government's report and the discussion in the Conference Committee.

The Committee referred in its previous observation to the allegations made in January 1991 by the International Confederation of Free Trade Unions (ICFTU), according to which:

> The system known in the country as voluntary labour is, in practice, forced labour under the terms of the Convention, since refusal to do such labour results in the loss of certain rights, benefits and privileges. In its comments the ICFTU describes this system as follows: the "quotas" for voluntary labour are formally adopted at the workers' assembly of each enterprise, although in practice they are predetermined by the trade unions, which are responsible for organizing voluntary labour. Once the quota has been established, managers of enterprises prepare lists of the workers who are to perform the work; 120 hours of voluntary labour give entitlement to a certificate while, in

contrast, in the event of repeated unjustified absences the worker is described as "counter-revolutionary".

The trade union organization also refers to resolution No. 590 of 1980 of the Ministry of Labour and Social Security, which establishes merits for two categories of voluntary work, namely participation in permanent activities (sugar harvest, housing construction, microbrigades) and in voluntary labour organized by the trade union (section 5(e) and (f)). Annual assemblies to consider merits and demerits discuss the report of the trade union chapter on the merits achieved by the workers, which include participation in voluntary work, and propose their inclusion in the labour record ("expediente laboral") (section 3).

The ICFTU alleges that certain benefits, rights and privileges, such as promotion, transfer, access to new employment, the acquisition of certain consumer goods, housing or participation in university programmes, depend on the merits that have been accumulated and noted in the worker's work book.

In its reply to the ICFTU's allegations, the Government stated that voluntary work in Cuba is strictly voluntary and that no-one can be punished, harassed or deprived of any right for not participating in it.

With regard to resolution No. 590 of 1980, which establishes inclusion in the work book of the merits accumulated by the workers, the Government states that this practice reflects the encouragement and recognition given to individuals by all the workers and has nothing whatsoever to do with the rights guaranteed equally to all workers.

The Committee also noted that resolution No. 590 of 1980 was in the process of being examined with a view to making the necessary amendments in the light of the particular circumstances of the country.

The Committee notes the concern expressed by the Worker members in the discussion in the Conference Committee with regard to the volume and emphasis placed on voluntary work and the establishment of quotas, which appear to imply a measure of compulsion. In their opinion, the elimination of references to voluntary work in the law would be a first step towards guaranteeing that there was no implied pressure on workers to perform voluntary work. The Employer members emphasized that the existence of work books in which voluntary work was registered and the annual assemblies which considered the reports of trade union chapters concerning merits proved the existence of compulsory labour, and they expressed the wish that the Government should supply information on the operation of the system of work books.

The Committee notes the information supplied orally by the Government representatives to the Conference Committee and in written form in the Government's last report, according to which the draft resolution to repeal resolution No. 590 of 1980, which provides for the registration in the work book of merits, is still under consultation with the trade union organizations and will be adopted soon. Furthermore, the Government states that the new regulations on employment policy have also been submitted for consultations; these regulations do not contain provisions for controlling the registration of merits, through which the voluntary work performed by the worker was reflected. The Government states that "this information has been given to avoid erroneous interpretations relating to voluntary work and as an expression of the will of the Government to ensure that, if such work is performed, it is of a strictly voluntary nature".

The Committee requests the Government to supply a copy of the resolution to repeal resolution No. 590 of 1980 and the new regulations on employment policy when they have been adopted and to supply information on any other measure which is taken to ensure that the Convention is respected.

France (ratification: 1937)

Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee referred to section 720 of the Code of Criminal Procedure, as amended in 1987, under which all necessary arrangements are made in prison establishments to ensure that prisoners who so wish may engage in occupational activity. The Committee also noted that the employment relationships of prisoners are not covered by employment contracts (section 720, paragraph 3), except in the case of prisoners on semi-release, but that the work is generally remunerated. Referring more particularly to the work performed by prisoners for enterprises using prison labour, the Committee none the less noted that the average hourly rate of remuneration was less than half the minimum wage (SMIC) and that substantial deductions were made. The Committee asked the Government to indicate the measures taken or under consideration to ensure that the remuneration paid by hiring enterprises is of a comparable level to that paid to free workers and to state who is responsible for the payment of the employers' share of social contributions in the case of hired workers.

1. The Committee notes the detailed information supplied by the Government in its report, particularly concerning the different categories of activity (general service, Prisons' Industrial Board (RIEP), concession, vocational training and other), the distribution of jobs, developments in the methods and objectives of prison labour and the total wages of each category.

With regard to the remuneration paid to prisoners, the Government states that the principle whereby the remuneration of detainees is negotiated at the same level as that of free workers still applies, but that there are still difficulties arising from the quality of work performed in detention, the low skill levels of prison detainees and their lack of vocational training, and the organization of prison labour which precludes achievement of productivity level comparable to that of outside enterprises (short working days, frequent interruptions). The Government also indicates that owing to the economic situation outside prison, immediate alignment with wages paid outside would be unrealistic.

The Committee notes however the Government's indications that the prison administration is aware of the overall inadequacy of the level of individual remuneration and is endeavouring to produce a policy to improve it. Since most work is paid at piece-rates, in negotiations with enterprises using prison labour the average productivity in the sector concerned outside the prison is used as the basis for calculation. Thus, a prisoner who attains the outside level of productivity will be paid at least the minimum wage, with upwards or downwards adjustment for any differential.

The Government adds that, for all prisoners, the employer's share of social contributions is paid by the employer and that for prisoners exercising an activity outside the establishment, ordinary labour law applies (work contract, automatic alignment with working conditions outside, including in respect of remuneration).

2. The Committee also notes the Government's indications concerning the construction of new prison accommodation for 13,000 inmates. It is managed partly by private enterprises, which are responsible for the "labour function". Minimum rates of remuneration have been fixed and these establishments have a "minimum prison wage" which is adjusted annually in keeping with the SMIC (60 per cent of the hourly SMIC rate). The Government points out that the methods of organizing prison labour have been reviewed and now include the keeping of files on the activities to be performed, jobs to be filled and the level of remuneration. It adds that the prison working day is organized with a view to obtaining better returns on the investments (two five-hour shifts so that machines can be used for ten hours instead of the six hours under the former system); this should also enable the prisoners concerned to have access to other activities in the establishment (e.g. sports, education, social and cultural activities).

The Committee recalls that Article 2, paragraph 2(c), of the Convention expressly prohibits persons from whom work is exacted as a consequence of a conviction in a court of law from being placed at the disposal of private individuals, companies or associations. The only work which can be considered as an exception to this prohibition is work carried out under the conditions of a free employment relationship; this requires not only the formal consent of the prisoner, but also in the light of the circumstances of this consent, guarantees and safeguards in respect of wages and social security that are such to justify the labour relationship being regarded as a free one.

The Committee asks the Government to provide detailed information on any developments and progress in this respect.

Greece (ratification: 1952)

For several years, the Committee has been drawing the Government's attention to the provisions of section 2, subsection 5 of Legislative Decree No. 17 of 1974 respecting civilian planning for a state of emergency, under which the full or partial mobilization of civilians may be proclaimed, even in peace time, in any situation arising suddenly and resulting in a disturbance of the economic and social life of the country. All citizens may then be called upon to take part in work or to perform services under penalty of imprisonment (section 20, subsections 2 and 3, and section 35, subsection 1). In such cases the application of labour legislation is suspended.

The Committee drew the Government's attention to the provisions of Article 2, paragraph 2(d), of the Convention and the explanations set out in paragraphs 63 to 66 of its General Survey of 1979 on the abolition of forced labour, in which it indicates that recourse to compulsory labour under emergency powers should be limited to circumstances which endanger or are liable to endanger the existence or well-being of the whole or a part of the population, and that in order to avoid any uncertainty as to the compatibility of national provisions with the applicable international standards, it should be clear from the legislation itself that the power to exact labour can only be invoked within the above limits.

The Committee notes the information supplied by the Government in its report to the effect that Legislative Decree No. 17 of 1974 will be revised once Parliament has adopted a Bill on civil defence dealing with questions of emergency arising from physical or technological causes.

The Committee hopes that the Government will provide a copy of the Bill as soon as it has been enacted together with information on the measures adopted to ensure observance of the Convention.

Haiti (ratification: 1958)

In its previous observation the Committee referred to the report on children's rights in Haiti, prepared by the Minnesota Lawyers International Human Rights Committee in February 1989 and submitted to the Working Group on Contemporary Forms of Slavery of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1989 by an observer of the International Human Rights Internship Programme. The report refers to the use of children as servants, known in Creole as "restavek" from the French "rester avec" or "to stay with". Many poor families are alleged to be selling their children to urban families to work as domestics in conditions which are not unlike servitude. The children were forced to work long hours, with little chance for bettering their conditions; many children were reported to have been physically or sexually abused. Some of the girls who were "sold" as domestics at a young age did not know their family name or where their family lived and, thus, were unable to return to their homes. Many of the children presently living in the streets of Port-au-Prince had fled restavek situations, preferring a life without shelter or food to a life of servitude and abuse. The practice of restavek was openly compared to slavery in Haiti.

In presenting the report, the observer also alleged that while there were exceptions, the restavek children were very rarely treated like adoptive members of the restavek family. Usually there was a clear distinction between a restavek family's natural children and the restavek child, with the restavek children taking orders from the other children. Restavek children were not fed the same food as the restavek family, worked long hours for no pay both inside and outside the home and often were not housed in the main dwelling, but in a separate shed or shade. Few were sent to school or otherwise educated. If a runaway was found by the restavek family, the child could be forced to return.

The Committee had noted these allegations. It also had taken note of sections 341 to 355 of the Labour Code of Haiti which contain detailed provisions for the protection of children employed as domestic servants and prohibit such employment of chidren below the age of 12.

The Committee had asked the Government to supply information on all measures taken to ensure the observance of the provisions of sections 341 to 355 of the Labour Code, including data on the action of the Social Welfare and Research Institute (IBESR), municipal authorities and the labour courts.

The Committee notes that in its report the Government (recognized as legitimate under resolution 46/7 adopted by the UN General Assembly) indicates that it is not, at present, in a position to supply to the ILO the information requested and that it undertakes to perform a full inquiry into conditions of work in general.

The Committee hopes that the Government will soon be in a position to supply the information requested.

India (ratification: 1954)

The Committee notes that more than 15 years have passed since the authorities of India took the decision to abolish the bonded labour system in 1976; that ten years have elapsed since the Supreme Court adopted its landmark decision in 1983. Yet the situation in practice does not appear to have improved very much. The National Commission on Rural Labour has made a number of proposals and recommendations with a view to improving the situation. The Committee requests the Government to inform it of any action taken or envisaged with a view to implementing these proposals and recommendations.

The Committee notes the information provided by the Government to the Conference Committee in 1992 and the discussion which took place in the Committee.

The Committee has also taken note of the report of the National Commission on Rural Labour, published by the Government of India in 1991, as well as of the report of the Commissioner on Scheduled Castes and Scheduled Tribes (29th Report, 1987-89), documents which were provided by the Government with the information submitted to the Conference Committee. The Commission on Rural Labour established in 1987 was entrusted to examine in depth the national and region-specific problems of rural labour, with comprehensive terms of reference which included matters concerning bondage. The Commission submitted its report on 31 July 1991; its findings and recommendations on bonded labour are reflected in Chapter 8. The Commission characterizes bonded labour as an "age-old inhuman system" which "combines the worst and extreme features of exploitation and discrimination".

The Committee has further taken note of the Programme of Action against Child Bondage adopted by the participants in the Asian Regional Seminar on Children in Bondage, which was held in Islamabad, Pakistan, from 23 to 26 November 1992.

Abolition of bonded labour

Legislation

1. The Committee has previously noted that, under article 23(1) of the Constitution of India, traffic in human beings and "begar" and other similar forms of forced labour are prohibited and punishable in accordance with the law. By virtue of the Bonded Labour System (Abolition) Act, No. 19, of 1976, the bonded labour system was abolished. The Supreme Court of India, by judgement of 16 December 1983, considered that a labourer providing forced labour comes under the purview of the Act and that the element of loan/debt/advance is presumed to be in existence until rebutted. An amendment adopted in 1985 broadened the scope of the Act to include contract labour and migrant labour.

Identification and magnitude of the problem of bonded labour

2. There exists no comprehensive survey of the magnitude of the problem. As the Committee has indicated in its previous comments, different estimates have been made in the years 1977 to 1979. One survey conducted in 1978-79 under the joint auspices of the Gandhi Peace Foundation (GPF) and the National Labour Institute (NLI) covering ten out of 21 States, but only the traditional areas, estimated the number of bonded labourers at 2.6 million; a report by the Subcommission on Bonded Labour set up by the Central Standing Committee on Rural Unorganized Labour referred in 1979 to some 2 million bonded labourers in the rural sector. In 1980, nine state governments gave an estimate of about 0.12 million bonded labourers, while in 1990 this number rose to 0.24 million in 12 states.

The Bonded Liberation Front of India has put forward the figure of some 5 million adult and 10 million child bonded labourers.

The latest figures provided by the Government based on reports from states indicate that as of March 1991 some 0.25 million bonded labourers had been identified (of whom 0.22 million were rehabilitated).

According to the report by the National Commission on Rural Labour as concerns agriculture, high incidences of bonded labour are to be found in the states of Andhra Pradesh, Bihar, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, and Uttar Pradesh; bonded labour has also been noticed in non-agricultural occupations such as workers in stone quarries in different parts of the country, in brick kilns, migrant labourers, joginis and devadasis, fishermen, building and construction labour, forest labour in certain states, bidi workers, carpet weavers, pottery weavers, head loaders, child labour in the match and fireworks industries, etc. Economic backwardness, poor infrastructure and low employment characterize the areas where bonded labour is found. All-India averages indicate that bonded labourers typically belong to Scheduled Castes (61 per cent) and Scheduled Tribes (25 per cent), and are illiterate and landless. The Commissioner for Scheduled Castes and Scheduled Tribes refers to bonded labour in coffee plantations of Tamil Nadu, in agricultural settings in Daltanganj and Champaran, in stone quarries in Uttar Pradesh and Madhya Pradesh.

The Committee notes the Government's statement to the Conference Committee that identification of bonded labourers is mainly undertaken by the revenue department and the block development officer of the state governments. The Ministry of Labour has issued circular instructions highlighting the need to undertake fresh efforts for identification and has suggested the following steps:

(a) household surveys be conducted on the lines of the survey drawn up by the National Sample Survey Organization (32nd round);
(b) identification be made during censuses conducted for the allotment of house sites;
(c) intensive studies be undertaken in stone quarries and brick kilns.

The Committee observes that, in its report for the period ending June 1985, the Government already referred to the same kind of measures.

The Committee hopes that the Government will provide full information on the steps taken by state governments following these instructions. The Committee observes, however, that the report by the Commission on Rural Labour indicates that the definition of bonded labour adopted by the National Sample Survey Organization (32nd round, 1977-78) was restrictive, not encompassing fully the definition of the Act, though covering traditional and non-traditional areas. The Committee hopes that any household survey conducted, as well as the censuses and studies to be made, will take into consideration the full definition of the Bonded Labour System (Abolition) Act, 1976, as interpreted by the Supreme Court of India in 1983 and with the amendments adopted in 1985. It requests the Government to provide information in this regard, including any instructions issued to this effect.

Identification and the role of vigilance committees

3. In its previous comments the Committee, referring to section 14 of the Bonded Labour System (Abolition) Act, 1976, and to the Bonded Labour System (Abolition) Rules, 1976, requested the Government to provide detailed information on the institution, the activities carried out and the results achieved by vigilance committees which are in particular expected to give advice about measures to be taken to implement the provisions of the Act, provide for economic and social rehabilitation and monitor offences under the Act.

The Committee notes the Government's statement to the Conference Committee that vigilance committees are set up by state governments in almost all districts and subdivisions where the problem of bonded labour is endemic; that they hold periodic meetings to review the implementation of the Act and to assist the authorities. The

Government adds that no reports are received from the committees and that their activities are monitored by state governments. In view of the large number of vigilance committees, it is impractical to review their working by the central Government.

The Committee notes, however, that the report of the National Commission on Rural Labour indicates that, while a few vigilance committees have been doing good work, most of them have not been constituted or reconstituted or have not been active as meetings are not held regularly. There has been no monitoring of the functioning of these committees and in the last few years fresh identification of bonded labourers has almost stopped. The National Commission considers that it is necessary to activate the vigilance committees with the composition as prescribed.

The Committee hopes that the Government will take action so as to be able to monitor the existence and functioning of vigilance committees. It hopes once more that the Government will be able to provide detailed information on the work of vigilance committees including any initiatives taken by or suggested to the state governments to ensure that these committees function effectively and contribute to the abolition of bonded labour.

Rehabilitation

4. In its previous comments the Committee referred to the centrally sponsored scheme for the rehabilitation of bonded labour and the involvement of voluntary agencies and to the integration of the bonded labour rehabilitation scheme with other anti-poverty schemes (such as the National Rural Employment Programme, the Rural Landless Employment Generation Programme and the Integrated Rural Development Programme). The Committee stressed the importance of timely and adequate rehabilitation of the freed bonded labourers so as to provide them with means of subsistence and avoid their falling back into bondage.

The Committee notes the information supplied by the Government to the Conference Committee that so far four voluntary agencies have been involved in the scheme in the states of Madhya Pradesh, Maharashtra and Rajasthan.

The Committee notes that the National Commission on Rural Labour points to the shortcomings in rehabilitation found in the majority of cases and to the necessity to improve the rehabilitation measures qualitatively. It proposes a number of measures to this effect. In relation to the involvement of voluntary agencies, the National Commission considers that the organization of bonded labourers may be recognized as a voluntary agency for the implementation of the rehabilitation schemes.

The Committee hopes that the Government will take action to stimulate the involvement of more voluntary agencies, in particular those which have been concerned with bonded labour for years, such as the Bonded Labour Liberation Front, and that it will provide detailed information on measures taken following the recommendations of the National Commission and on the results achieved.

The Committee again stresses the importance of the involvement of trade unions in the process of identification and rehabilitation of bonded labourers.

Proposal for the institution of a National Authority on Bonded Labour

5. The Committee has noted that in its report the National Commission on Rural Labour has recommended that the existing implementation structure be augmented by the creation of a network of agencies at the national and state levels as nodal agencies to supervise and coordinate the identification, release and rehabilitation of bonded labourers, and to make administration more responsive and vigilance committees accountable. A National Authority or National Commission on Bonded Labour should be constituted on the lines of the National Commission on Scheduled Castes and Scheduled Tribes, and at state levels there should be commissioners for bonded labour.

The Committee notes the Government's indication to the Conference Committee that the question of setting up a National Commission on Bonded Labour was examined in detail by the Ministry of Labour in the light of the recommendations of the National Commission on Rural Labour. It was decided that the setting up of such a commission was not necessary at this stage but that the implementation of the provisions of the Act by state governments should be closely monitored and that a system of quarterly monitoring has been introduced. On 7 February 1992 the Union Labour Secretary invited state governments to take vigorous steps for the identification and rehabilitation of bonded labourers.

The Committee has taken note of the pro forma copy of the document on monitoring provided by the Government. The Committee hopes that the Government will provide detailed information on the results achieved following these instructions, in particular on any noticeable increase in the number of bonded labourers identified and rehabilitated; on measures taken at state level and reported to the central Government; and on any new assessment of the situation made by the central Government.

The Committee has been informed that a Bill to establish a Commission on Human Rights is being submitted to Parliament. This Commission could be entrusted with the questions concerning bonded labour.

Enforcement of sanctions

6. Under the Bonded Labour System (Abolition) Act, 1976, compulsion to render bonded labour, advancement of bonded debt, enforcement of any custom, tradition, contract, agreement or other instrument requiring any service to be rendered under the bonded labour system are punishable with imprisonment for up to three years and a fine of up to Rs.2,000 (sections 16, 17 and 18 of the Act); the Act provides for various measures to be taken by state authorities to ensure punishment of offenders. In its previous observation the Committee noted, however, that few cases of imprisonment had been

reported and it requested the Government, in view of the gravity of the problem, to take effective measures to secure the rigorous application of the laws prohibiting the bonded labour practice and punishing the employers of bonded labour.

The National Commission on Rural Labour states in its report that, in order to generate confidence in the abolition system, an effective enforcement of the Act is required. It refers to reports of inordinate time lags between identification, release and rehabilitation and notes that there have been very few prosecutions against persons who keep labour in bondage. The Commission stresses that the process of identification, release and criminal prosecution should, as far as possible, be simultaneous activities and makes a certain number of proposals to improve the situation.

The Committee recalls that, under Article 25 of the Convention, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and the Government must ensure that penalties imposed by law are really adequate and strictly enforced.

The Committee hopes that the Government will indicate measures contemplated or adopted to enhance the enforcement machinery.

Referring to its previous comments, the Committee also hopes that the Government will provide a copy of the report of the Committee instituted to investigate the situation of bonded labour in Haryana, a report which was submitted to the Supreme Court in June 1991.

Child bonded labour

7. In previous comments the Committee referred to allegations brought before the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities (14th to 16th Sessions, 1989-91) that millions of children were in bondage in the following activities. agriculture, brick kilns, stone quarries, carpet weaving, handlooms, matches and fireworks, glass bangles, diamond cutting and polishing; that child bondage and forced labour were connected with trafficking, kidnapping, repression, absence of freedom of movement, beating, sexual abuse, starvation, abnormal working hours and hazardous working conditions.

The Committee also noted the report of the fact-finding committee appointed on 1 August 1991 by Order of the Supreme Court of India (in writ petition, civil, No. 12125 of 1984) which gives extensive descriptions of bonded children in the carpet-weaving region in the states of Uttar Pradesh and Bihar. The fact-finding committee made several recommendations to improve the situation, including strict enforcement of the Bonded Labour System (Abolition) Act, and measures to ensure that the amounts granted on release are used for effective rehabilitation. The Committee again expresses the hope that the Government will provide a copy of the Supreme Court judgement when pronounced.

The Committee notes that the Government in its statement to the Conference Committee, referring to child labour in general, has indicated that it is proposed to expand the national policy on child labour to include not only enforcement machinery but also the non-governmental organizations, the community at large, and the workers' and employers' organizations. Under the ILO international programme for the elimination of child labour (IPEC), India would take up, among others, training of the inspectorate and a massive awareness campaign.

The Committee hopes that the Government will be able to provide information on the results achieved following these initiatives as concerns bonded child labour.

8. The Committee notes that an Asian Regional Seminar on Children in Bondage was held in Islamabad, Pakistan, from 23 to 26 November 1992, organized by the ILO in collaboration with the Government of Pakistan and the UN Centre for Human Rights. It was attended by participants from Bangladesh, India, Nepal, Pakistan, Sri Lanka and Thailand and included judges, lawyers, labour officials, members of employers' and workers' organizations, and officials of national and regional non-governmental organizations concerned with bonded labour. The participants formulated and adopted a Programme of Action against Child Bondage.

The programme refers to millions of children in bondage found in several countries of the region. These children are often victims of social malpractices which affect larger groups or segments of the population, especially their parents. They work in a variety of sectors and industries, especially in agriculture, carpet weaving, brick kiln, stone quarrying and construction. Sometimes they are forced to work alone separated from their families: they may work "unseen" in domestic service; they may be "recruited" for work in plantations; be kidnapped from their families; be forcibly confined in sweatshops and brothels; be exported as prostitutes or as camel riders; be deliberately maimed and forced into begging or similar rackets run by criminal gangs. Bonded children are described as the most lonely, vulnerable, tragic workers of the world.

According to the programme the struggle against child bondage requires a firm political commitment - a clear and unambiguous declaration against bondage - a comprehensive national policy and programme of action covering legislative reforms, effective enforcement and a system of compulsory and free education, sustained by community mobilization and information campaigns.

The Committee requests the Government to provide detailed information on measures taken or envisaged to abolish bonded child labour and for the effective enforcement of the Bonded Labour System (Abolition) Act, 1976, in relation to bonded children.

Islamic Republic of Iran (ratification: 1957)

In its previous comments, the Committee referred to the provisions of section 273 bis of the Penal Code, under which any person who does not have definite means of subsistence and who, whether through idleness or through negligence, does not look for work may be obliged by the Government to take employment. The Committee notes the Government's indication in its report received in 1992 that a new Islamic Penal Code has been promulgated and that a copy will be sent. The Committee hopes to receive the Code in the near future.

Liberia

Further to its general observation, the Committee notes with regret that no report has been received from the Government. It must therefore repeat its previous observation on the following matters:

1. Penal sanctions for illegal exaction of forced labour. Referring to its previous comments the Committee recalls that under Article 25 of the Convention, the illegal exaction of forced labour shall be punishable as a penal offence with penalties which should be really adequate and strictly enforced. The Committee trusts that the necessary legislation will be enacted.

2. Local public works. In previous observations, the Committee noted that, notwithstanding the repeal in 1962 of provisions for the exaction of forced labour for public works contained in the Revised Laws and Administrative Regulations for Governing the Hinterland, 1949, continued use had been made of such powers for carrying out local development works through self-help projects. The Committee noted that according to the annual report of the Ministry of Local Government, Rural Development and Urban Reconstruction for 1981, 75 per cent of rural development projects visited during a nationwide inspection tour were funded through self-help and it requested the Government to provide a copy of the report on the inspection tour and any similar report.

The Committee hopes that the legislative provisions to be adopted with a view to giving effect to the requirements of Article 25 of the Convention will ensure that any exaction of labour in connection with local development works can be the subject of effective penalties.

3. Enforcement of the prohibition of forced or compulsory labour. In previous observations, the Committee pointed out that, under Articles 24 and 25 of the Convention, the Government was under an obligation to ensure the strict observance of the prohibition of forced or compulsory labour. It stressed the importance, in this connection, of measures to ensure adequate labour inspection, particularly in non-concessionary agricultural undertakings and in relation to Chiefs. The Committee hopes the next report will contain further information in this respect.

Madagascar (ratification: 1960)

The Committee notes the statement by the Government representative to the Conference Committee in June 1992 to the effect that the Government took its obligations in respect of ratified Conventions seriously, and particularly with regard to Convention No. 29, on which a detailed report was to be sent in the very near future. He also stated that the compulsory nature of national service had been abolished. The Committee notes, however, with regret, that the Government's report has not been received. It is therefore bound to repeat its previous observation, which read as follows:

1. Article 2, paragraph 2(c), of the Convention. In its previous comments, the Committee referred to the provisions of Decree No. 59-121 of 27 October 1959 (amended by a Decree of 6 March 1963) to establish the general organization of the prison services, under which prison labour may be hired to private undertakings and prison work may be imposed on persons detained pending trial. The Committee noted the Government's statements that the hiring of prison labour to private individuals has been abolished by repeated circulars and that persons awaiting trial are no longer forced to perform prison work, following comments by the Committee of Experts. It also noted that the revision of Decree No. 59-121 was under study.

The Committee noted the indications communicated by the Government in its report for the period ending 30 June 1989, to the effect that Decree No. 59-121 had not yet been amended. It expresses again the hope that it will be amended in the near future in order to bring the law into conformity with the Convention on this essential point.

2. In earlier comments, the Committee referred to Act No. 68-018 of 6 December 1968 and to Ordinance No. 78-002 of 16 February 1978 respecting the general principles of national service, which define national service as the compulsory participation of all Malagasies in national defence and in the economic and social development of the country. It also noted the provisions of section 8 of Ordinance No. 78-003 of 6 March 1978 establishing the conditions of service of staff liable to national service obligations on the active and reserve lists, under which members of the armed forces performing their service outside the armed forces are referred to by their functions (teachers, doctors, telegraphists, etc.) followed by the term "national service". Lastly, it noted the various texts that either referred to the powers of the military committee for development with regard to work in support of the local communities, or laid down the procedure for the incorporation in national service of young school-leavers and recruits of a particular age group, or changed the name of the units responsible for development (development forces).

The Committee recalled that under the provisions of Act No. 68-018 and Ordinance No. 78-002, national service is defined as the compulsory participation, imposed for a period of up to two years, of part of the population, namely young Malagasies from 18 to 35 years old, under the threat of various penalties and sanctions, in the activities of national defence and the economic and social development of the country. The Committee referred to Article 2, paragraph 2(a), of the Convention under which compulsory military service, if it is confined to work of a purely military character, does not come within the scope of the Convention. It pointed out that work imposed on recruits under national service, and in particular work relating to the economic and social development of the country, is not of a purely military character.

The Committee noted the Government's statement that national service was established with a view to fostering economic and social development and had helped to reduce illiteracy in certain regions, and that secondary school-leavers joined up voluntarily.

The Committee hopes that the Government will make every effort to take the necessary measures in the very near future.

Mauritania (ratification: 1961)

The Committee notes the information supplied by the Government in reports received in February and August 1992. The Committee also notes the report of the direct contacts mission which, at the request of the Government, visited Mauritania in April-May 1992 and the discussions which took place in the Conference Committee following this mission.

Slavery

In its previous comments, the Committee referred to the situation in law and in practice with regard to the abolition of slavery in the country.

Legislation and the effective application of the law. 1. In its previous comments, the Committee referred to the following provisions to abolish slavery or prohibit forced labour:

- a number of provisions adopted before independence, namely: the Decree of 1905 to abolish slavery, Act No. 46-645 of 11 April 1946 respecting the abolition of forced labour in the overseas territories, Act No. 52-1322 of 15 December 1952 to issue a Labour Code in the overseas territories;
- the Labour Code of 1963, of which section 3 prohibits forced or compulsory labour under penalty of the penal sanctions set out in section 56(a);
- the Declaration of 5 July 1980 proclaiming the abolition of slavery and Ordinance No. 81-234 of 9 November 1981 to abolish slavery. The Committee pointed out that the Ordinance does not contain provisions imposing penal sanctions for the illegal exaction of forced labour;
- the Committee also noted the information supplied to the United Nations according to which Circular No. 003 of 9 January 1981 invited judges and cadis (al-koudath) to respect the decision of 1980 and to remain in conformity with international and national law, and Circular No. 108 of 8 May 1983, which once again prohibited judges from taking decisions that are incompatible with the law and requested governors to give notification of all breaches and irregularities coming to their knowledge.

The Government stated previously that the practice of forced labour no longer exists in the country and that Ordinance No. 81-234 to abolish slavery has no scope since it enshrines, according to the Government, a situation which already exists in practice, while social and institutional development prevents the existence in law and in practice of forced labour.

The Committee noted that the various texts adopted before independence had prohibited slavery and forced labour, without preventing their occurrence in practice. Similarly, despite the provisions of the Labour Code adopted in 1963, the practice of slavery had nevertheless continued since the Government had considered it necessary to adopt new texts, namely the Declaration and the Ordinance to abolish slavery, in 1980 and 1981.

The Committee notes the information supplied by the Government to the Conference Committee and contained in its reports of February and August 1992 to the effect that slavery was abolished prior to the country gaining its sovereignty and that the abolition is confirmed by all the legal provisions of the country, and particularly by the Labour Code and the new Constitution of 20 July 1991, which in article 13 prohibits any form of moral or physical violence. The Government adds that Ordinance No. 81-234 of 1981 was aimed much more at eradicating the consequences of slavery than at its abolition.

The Committee notes that the Circular referred to above, No. 003 of 9 January 1981, of which the Government supplied a copy, refers to the need to emphasize to the judicial authorities that they must for ever put aside any considerations of the "masters to slaves" type, or vice-versa, with regard to procedures, and states that "the practice of slavery is illegal and must therefore be brought to an end under all its forms".

The Committee notes that the Government has not provided information over the past years on any action taken against persons guilty of forced labour practices or slavery and that, in its last report, the Government states that there have not been any judicial rulings handed down by the courts.

The Committee notes that certain information was gathered by the direct contacts mission from which it appears that slavery has not been eradicated and would still appear to be at a certain level.

The Committee also recalls that it noted previously that the report of the Working Group on Contemporary Forms of Slavery of the United Nations Subcommission on the Prevention of Discrimination and the Protection of Minorities, at its 15th Session (document E/CN.4/SUB.2/1990/44), referred to information that there has been no strengthening of inspection (particularly with regard to freed slaves who have remained with their masters), and that no specific body has been entrusted with coordinating the struggle against slavery. The Committee notes in this respect that the Government stated to the direct contacts mission that it was not in favour of the establishment of such a body, and preferred to take the appropriate measures in a general context.

The Committee recalls that by virtue of Article 25 of the Convention, not only shall the illegal exaction of forced or compulsory labour be punishable as a penal offence, but it shall be an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and strictly enforced.

The Committee is bound to request the Government once again to supply information on any legal actions which have been taken and any penalties imposed for the exaction of forced labour and on any other measures which have been taken or are envisaged to ensure the effective application of the legislation, such as, for example, action to inform and train the judiciary or information campaigns for the populations concerned and for the public at large through the various media.

Rehabilitation measures. 2. The Committee recalls that the Conference Committee previously expressed concern at the situation of freed slaves in order to prevent them from returning or falling once again into slavery as a result of a lack of means of subsistence. It notes the measures adopted by the Government to eliminate what it considers to be the "consequences of an anachronistic practice". The Government states that it has endeavoured for some years to establish a real policy for the integration of the descendants of former slaves in the various sectors of national life, particularly in the field of education through the opening of modern and traditional schools in regions in which the incidence of this social category is high. This action includes the establishment of a ministerial department for the literacy of adults with the aim of combating the illiteracy which is particularly prevalent among this category. It has also established a policy of access to land through the distribution of lots for housing which is mainly intended for this community. The Government refers in this respect to Ordinance No. 83-127 of 9 June 1983 to reorganize land rights and estates and indicates that it forbids any system of share-cropping or servitude and guarantees access to property. The Government adds that it has applied a deliberate policy of promoting the representatives of this social category at all the levels of the political hierarcy and administration of the State, thereby guaranteeing their effective participation in the decision-making process.

The Committee notes the annual report of the activities of the Government during 1992 and the guidelines for the Government's programme for 1993, presented to the National Assembly in November 1992, which refer in particular to measures and programmes in the fields of health, education and housing. The Committee would have hoped that the Government would at this occasion have shown its will to put into effect the "real policy of the integration of the descendants of former slaves in the various sectors of national life" which it described in its report of August 1992 and that it would have indicated the measures used to this effect.

The Committee therefore hopes that the Government will supply detailed information on the programmes and measures which are envisaged or have been implemented specifically in favour of former slaves.

3. With reference to the provisions of Ordinance No. 81-234 of 9 November 1981, which provides that the abolition of slavery gives rise to compensation for those entitled to it, the rules of which would be determined by decree, and with reference to the discussions which took place in the Conference Committee in this respect, the Committee requested the Government to indicate whether these provisions had either been repealed or implemented. The Committee notes the information supplied by the Government to the direct contacts mission to the effect that it does not intend to implement this Ordinance both for reasons of principle and because of a lack of material resources. However, it does not have the intention of repealing it in the near future.

4. The Committee is once again addressing a request directly to the Government concerning the effect given in practice to Ordinance No. 83-127 of 5 June 1983, referred to above, and on other points.

Requisitioning of labour

The Committee has noted in the comments that it has been making for many years that Ordinance No. 62-101 of 26 April 1962 and Act No. 70-029 of 23 January 1970 confer very wide powers on the authorities to requisition persons outside the cases of emergency admitted by Article 2, paragraph 2(d), of the Convention. The Committee noted that the Government stated previously that it recognized the need to repeal the provisions which were not in conformity with the Convention.

The Committee notes the Government's statement in its report of February 1992 that a committee composed of managerial-level staff of the Ministry of Labour and the Ministry of the Interior, which met in December 1991, examined the above two Ordinances and considered it necessary to repeal the provisions which are not in conformity with the Convention. The Committee also notes that the Government restated its intention to the direct contacts missions to amend the legislation in question in order to bring it into conformity with the Convention. The Committee requests the Government to supply information on the provisions adopted in this respect.

Myanmar (ratification: 1955)

1. In its previous comments the Committee noted the observations submitted on 17 January 1991 by the International Confederation of Free Trade Unions (ICFTU) alleging that the practice of compulsory portering was widespread in the country.

In this connection the Committee has taken note of the Report by a Special Rapporteur on the situation of human rights in Myanmar submitted to the United Nations Commission on Human Rights at its 49th Session, February-March 1993 (document E/CN.4/1993/37 of 17 February 1993). The Committee further notes that, by a communication of 25 January 1993, the International Confederation of Free Trade Unions, referring to article 24 of the ILO Constitution, made a representation alleging non-observance by Myanmar of the Convention. The Committee notes that at its 255th Session (March 1993) the Governing Body decided that the representation was receivable and set up a committee to examine it. Consequently the Committee is suspending examination of this matter, pending the conclusions of the above committee.

2. In relation to forced labour other than portering, the Committee notes that in his report the Special Rapporteur refers to the testimony of persons taken to provide labour in the construction of railroads (Aung Ban-Loikaw railroad) and of roads or the clearing of jungle areas for the military, that hundreds of persons were killed by the military when, as with porters, they were unable to carry loads and to continue the hard labour. The labour projects reportedly included two major railway projects, other border development projects of the Government, particularly along the Thai-Myanmar border, and labour for the military particularly in the areas of conflict in the Karen, Karenni, Shan, and Mon areas.

It was reported that the labourers died frequently as a result of constant beatings, unsanitary conditions, lack of food and lack of medical treatment, once they became sick or wounded and unable to continue work. Witnesses also provided information that some friends or relatives who returned from the work in the border development projects died afterwards as a result of the wounds and diseases contracted during their labour.

The Committee requests the Government to comment on the detailed testimony reported by the UN Special Rapporteur.

Pakistan (ratification: 1957)

The Committee notes the information provided by the Government in its report. It also notes the observations made by the All Pakistan Federation of Trade Unions on the application of the Convention.

Bonded labour

1. The Committee notes with satisfaction that on 11 March 1992 the Bonded Labour System (Abolition) Act, No. III of 1992 was promulgated. Under the Act the bonded labour system is abolished, every bonded labourer stands freed and discharged from any obligation to render any bonded labour. No person shall make an advance (peshgi) under, or in pursuance of, the bonded labour system or compel any person to render any bonded or other form of forced labour (section 4). The Act declares void and inoperative any custom or tradition or practice or any contract, agreement or other instrument, whether entered into or executed before or after the commencement of the Act, by virtue of which any person, or any member of his family, is required to do any work or render any service as a bonded labourer (section 5). Every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before commencement of the Act, shall stand extinguished. No suit or other proceeding shall lie in any civil court, tribunal or before any other authority for the recovery of any bonded debt or any part thereof (section 6). Provincial governments may entrust district magistrates with powers and duties to ensure the application of the Act. District magistrates shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of the bonded labourer so that he may not have any occasion or reason to contract any further bonded debt (sections 9 and 10).

The Act provides that compulsion to render bonded labour or extracting bonded labour under the bonded labour system will be punishable with imprisonment from two to five years or with a fine of 50,000 rupees, or both (sections 11 and 12).

The Act provides for special enforcement measures, including the setting up of vigilance committees at district level consisting of elected representatives of the area, representatives of the district administration, bar associations, press, recognized social services and labour departments of federal and provincial governments. Their functions consist in advising the district administration on matters relating to the effective implementation of the law and in a proper manner, help in the rehabilitation of the freed bonded labourers, keep an eye on the working of the law and provide the bonded labourers assistance necessary to achieve the objectives of the law (section 15).

The Committee notes the comments by the All Pakistan Federation of Trade Unions that measures are required to implement the Act in its letter and spirit with a view to eliminating the exploitation of labour, by establishing vigilance committees at district level to monitor abuses of forced labour and by punishing those who violate the law. More resources should be allocated for education and training to the workers and their children who are subjected to forced labour.

The Committee requests the Government to provide detailed information on measures taken or envisaged to apply the Act in practice. The Committee hopes that the Government will in particular provide information on the following: the number of bonded labourers freed since the promulgation of the Act; indictments against bonded labour-keepers and sanctions applied; any measures taken by district magistrates to promote the welfare of the freed bonded labourers; the number of vigilance committees established, their composition and the work accomplished by these committees.

2. The Committee notes that an Asian Regional Seminar on Children in Bondage was held in Islamabad, Pakistan, from 23 to 26 November 1992, organized by the ILO in collaboration with the Government of Pakistan and the UN Centre for Human Rights. It was attended by participants from Bangladesh, India, Nepal, Pakistan, Sri Lanka and Thailand and included judges, lawyers, labour officials, members of employers' and workers' organizations, and officials of national and regional non-governmental organizations concerned with bonded labour. The participants formulated and adopted a Programme of Action against Child Bondage.

The programme refers to millions of children in bondage found in several countries of the region. These children are often victims of social malpractices which affect larger groups or segments of the population, especially their parents. They work in a variety of sectors and industries, especially in agriculture, carpet weaving, brick kiln, stone quarrying and construction. Sometimes they are forced to work alone separated from their families: they may work "unseen" in domestic service; they may be "recruited" for work in plantations; be kidnapped from their families; be forcibly confined in sweatshops and brothels; be exported as prostitutes or as camel riders; be deliberately maimed and forced into beggary or similar rackets run by criminal gangs. Bonded children are the most lonely, vulnerable, tragic workers of the world.

According to the programme the struggle against child bondage requires a firm political commitment - a clear and unambiguous declaration against bondage - a comprehensive national policy and programme of action covering legislative reforms, effective enforcement and a system of compulsory and free education, sustained by community mobilization and information campaigns.

The Committee requests the Government to provide detailed information on measures taken or envisaged to abolish bonded child labour and for the effective enforcement of the Bonded Labour System (Abolition) Act, 1992, in relation to bonded children.

Restrictions on termination of employment. 3. The Committee has been commenting for a considerable number of years on the provisions of the Pakistan Essential Services (Maintenance) Act, 1952 rendering punishable with imprisonment of up to one year a person in employment of whatever nature under the central Government, who terminates his employment without the consent of his employer, notwithstanding any express or implied term in his contract providing for termination with notice. These provisions may be extended to other classes of employment (sections 2, 3(1)(b) and explanation 2, section 7(1); section 3). Similar provisions are contained in the West Pakistan Essential Services (Maintenance) Act, 1958.

The Government has previously indicated its intention to amend the provisions of the Pakistan Essential Services (Maintenance) Act so that an employee may terminate his employment in accordance with the express or implied terms of his contract. The Committee notes that, in its latest report, the Government renews its intention to modify the provisions in question. Noting also the comments by the All Pakistan Federation of Trade Unions that the assurances by the Government to bring the above-mentioned provisions of the Pakistan Essential Services (Maintenance) Act, 1952 and the West Pakistan Essential Services (Maintenance) Act, 1958 into conformity with the Convention have still to be fulfilled, the Committee expresses the firm hope that the necessary measures to this effect will soon be adopted.

Paraguay (ratification: 1967)

Article 2, paragraph 2(c), of the Convention. The Committee has been referring in its comments for many years to section 39 of Act No. 210 of 1970 respecting the prison system, which is contrary to this provision of the Convention since it states that "work shall be compulsory for detainees", and section 10 of the Act, which defines as detainees not only convicted persons but also those subjected to security measures in a prison establishment.

The Committee noted the Bill which was drafted in 1977 to amend section 39 of Act No. 210, under which detainees who have not been sentenced and those convicted of political offences who were not guilty of acts of violence will be exempted from the obligation to work.

The Committee notes that, according to the Government's report, the above Bill has not yet been adopted.

The Committee hopes that the Government will take the necessary measures without delay to ensure that the Convention is observed in this respect and that it will supply information in its next report on the progress achieved in this connection.

Peru (ratification: 1960)

The Committee notes the oral and written information provided by the Government representative to the Conference Committee in 1992 concerning the allegations made by the National Federation of Miners, Metalworkers and Iron and Steel Workers of Peru (FNTMMSP) concerning the situation of mine workers and workers in the Madre de Dios gold-mines and washeries, and the unremunerated work by children in chestnut-peeling enterprises in Puerto Maldonado. The information also referred to the situation of the indigenous communities in Atalaya, which had been raised by the Committee in previous comments.

I. Indigenous communities in Atalaya

The Committee notes the final report of the Multisectoral Committee (set up by Resolution No. 083-88-PCM, and made up of various bodies of the Ministries of Labour, Justice, Agriculture and the Peruvian Indian Institute) on the situation of the indigenous communities of Atalaya, which was supplied by the Government. This report establishes that "the indigenous communities in Atalaya, who are known as "captives", are subject to servitude in large and medium-sized stock-raising and/or timber estates, providing free or semi-free labour under the system of "advances" ("habilitación" or "enganche"). This system consists of advances given by an employer to an Indian worker in the form of work utensils, meals or money, in order to obtain the wood with which, in theory, he can subsequently repay the initial debt and obtain income for the survival of his family. Obliged to repay the original advance as well as interest on it, the Indians are caught in a vicious circle of exploitation and poverty which becomes their permanent condition. According to the report, 17 estates have been denounced as basing their labour relations on slavery and servitude."

Manner in which labour is obtained

According to the report which was supplied by the Government, in the estates in which inspection visits were undertaken "there exists a population which remains from generation to generation, with their servile condition being passed on from father to son. The violent abduction of children occurs frequently, or they are kidnapped under cover of patronage for their baptism, only to be held for life as servants." Other means of obtaining labour are "advances" ("habilitación" or "enganche"), described above. The report adds that, "by being violently subjected to conditions of work based on the deprival of their free will, the Indians are submerged in a system of slavery and are deprived of all liberty and their constitutional rights."

With regard to their conditions of work, the report states that the Indian workers "work between 10 and 12 hours every day, which is made worse by the fact that they are not paid the minimum living wage and are certainly not compensated for overtime, in violation of section 44 of the National Constitution. Nor are the provisions of labour legislation observed with regard to rest periods, social security and occupational health and safety." Furthermore, the report also points out "the difficulty or impossibility for the Indians to move freely outside the estate or camp and their imprisonment for debt in improvised prisons in the estates". The report concludes that the situation in the region of Atalaya "merits urgent action by the State".

The Committee notes the recommendations made by the Multisectoral Committee in its report to which the Government representative referred in the discussion in the Conference Committee concerning the tasks to be undertaken by the Ministry of Labour: (1) preventive inspection of estates and settlements which have been the subject of complaints; (2) the creation of the "work zone of Atalaya", where the inspection service must to be adequately implemented; (3) the coordination of Indian organizations for the permanent training of communal authorities and leaders in work issues. Its recommendations also include the application of the sanctions which are required and the extension of the mandate of the Multisectoral Committee.

In his statement to the Conference Committee, the Government representative regretted that it had not been possible to implement the recommendations relating to the creation of a regional work zone and the training of the communal authorities and leaders. He also stated that inspections carried out under the Ministry of Labour had not been able to examine in depth the situation in the estates which had been the subject of complaints due to the lack of collaboration by the local authorities, by employers and as a result of a shortage of resources.

The Committee hopes that the Government will take the necessary measures to eradicate the practices of debt servitude, and deceitful and violent means of obtaining labour, as well as the subhuman conditions of work and the exploitation of children under conditions of forced labour in the indigenous communities of Atalaya.

II. Unremunerated work by children in chestnut-peeling enterprises in Puerto Maldonado

The Committee referred previously to the allegations made by the FNTMMSP concerning the situation in the chestnut-peeling enterprises in Puerto Maldonado, according to which hundreds of children work alongside their mothers in these enterprises for up to 12 hours a day and receive no remuneration whatsoever. These enterprises mainly hire mothers, who enlist the assistance of their children in order to fill the number of barrels of chestnuts that are required daily.

In his statement to the Conference Committee, the Government representative indicated that in 1991 there had been a wage increase in chestnut-peeling enterprises as a result of collective bargaining. He also indicated that, although the Peruvian legislation contained provisions to prevent the exploitation of children, child labour was associated with poverty and the need for families to provide for basic survival, and could not be eradicated only through legislation. The Committee notes the reference to section 128 of the Penal Code, which permits sanctions to be imposed upon parents who, seeking a higher income, subject their children to work without a contract. In this context, the Committee requests the Government to supply information on provisions under which it is also possible to punish persons who do not have a family relationship with the children and obtain from them, by indirect means, the performance of unremunerated work.

The Committee requests the Government to supply information on the situation in the chestnut-peeling sector with reference to the employment of women and the use of child labour under the conditions which have been alleged, as well as copies of inspection reports drawn up on the situation and statistical data enabling the scope of the problem to be assessed.

The Committee hopes that the Government will take the necessary measures to prevent children from being indirectly compelled to work, in conditions of exploitation which bear no resemblance to a free employment relationship, and to report on progress achieved in this respect.

III. Workers in the Madre de Dios gold-mines and washeries

The Committee noted the allegations made by the FNTMMSP concerning in particular the dishonest hiring practices known as "enganche" on the part of individuals or agencies, for the most part in Puno and Cuzco, which recruit for mining enterprises holding licences from the National Directorate of Mines. The contracts offered are usually for 90 days (hence the term "noventeros" (90-day workers) for these workers). At the end of the 90-day period, employers are supposed to cover the costs of workers' return journeys, but generally fail to do so with the result that workers are unable to return to their place of origin. The FNTMMSP also alleges that, as regards working conditions, wages are too low, working hours too long and medical care non-existent, despite the high risk of contracting diseases such as malaria, tuberculosis, rabies and uta (a skin disease).

The Committee requested the Government to supply the report of the Multisectoral Committee set up by Ministerial Resolution No. 275-90 PCM of 26 June 1990 to investigate the situation of workers in the Madre de Dios gold washeries, as well as the inspection programmes and the draft rules, which were referred to by the Government, to ensure the protection of the workers concerned.

The Committee notes with interest the information supplied by the Government representative to the Conference Committee concerning the sanctions which have been imposed on certain clandestine employment bureaus and the fact that some have been ordered to close, as well as the action which has been taken by the labour authority of Cuzco to ensure that labour contracts are concluded and approved by those concerned.

The Committee requests the Government to supply the final report of the Multisectoral Committee set up by Ministerial Resolution No. 275-90-PCM of 26 June 1990, as well as the inspection programmes and information on any other measure which has been taken to ensure that the Convention is given effect in practice.

The Committee notes that under section 42 of the National Constitution, "In all labour relations, any condition which impedes the exercise of the constitutional rights of the workers or which does not recognize or diminishes their dignity is prohibited", and that "No one can be obliged to provide personal work without his free consent and without the compensation due to him." Section 2, paragraph 20(b) provides that "slavery, servitude, and traffic in human beings in any form whatsoever are abolished", and section 2, paragraph 20(c) that "there is no debtors' prison".

The Committee notes that, with reference to the various situations referred to above, the Government representative of Peru stated to the Conference Committee that they were illegal, that such practices were prohibited by the Constitution and that sanctions were provided for in the new Penal Code of 1991. He also stated that, although the Ministry of Labour is not present throughout the national territory, periodical inspections are carried out.

The Committee notes that the situations examined above represent important violations of Conventions Nos. 29 and 105. The subjection of the workers in their employment relationship, the fact that it is impossible for them to end the employment relationship, and the very bad conditions of work are all in contravention of the principles of Convention No. 29 and the provisions of the national legislation. Moreover, such situations are not in conformity with the obligation set out in Article 1, Paragraph (b), of Convention No. 105 concerning the abolition of forced or compulsory labour as a method of mobilizing and using labour for purposes of economic development. The Committee trusts that the Government will take the decisive measures which are required by such serious situations in order to ensure that Conventions Nos. 29 and 105 are respected and to eradicate violent or deceitful forms of obtaining labour, the system of debt servitude, the inhuman conditions of work in mines and estates, as well as the means which are used to ensure the continuation of the employment relationship and obtain the forced labour of children. The Committee requests the Government to supply information concerning these measures and the sanctions imposed upon persons who illegally exact forced labour, under the relevant provisions of the national legislation and Article 25 of Convention No. 29.

Sierra Leone (ratification: 1961)

In comments made for a number of years, the Committee has asked the Government to repeal or amend section 8(h) of the Chiefdom Councils Act (Cap. 61) under which compulsory cultivation may be imposed on natives. The Committee notes the Government's statement in its latest report that section 8(h) of the Chiefdom Councils Act is not in conformity with article 9 of the Constitution and would be held unenforceable. The Committee also notes the Government's indication that section 8(h) is not applied in practice and that information on any amendment of this section will be provided. The Committee trusts that measures will soon be adopted to bring section 8(h) of the Act into conformity with the Convention and the indicated practice, and that the Government will provide information on the action taken.

Sri Lanka (ratification: 1950)

The Committee notes the information provided by the Government in its report. The Committee also notes the comments by Jathika Sevaka

Sangamaya (National Employees Union) on the application of the Convention.

1. Article 25 of the Convention. In previous comments the Committee referred to allegations of child labour exploitation in domestic service, shops, private coaches, tourist industry and fishing camps (Wadiyas). The Committee noted that slavery was abolished in 1844, that sections 361 and 362 of the Penal Code prohibit buying or disposing of any person as a slave but that according to the Ceylon Workers' Congress no other provisions prohibited forced labour. The Committee further noted that article 27, paragraph 13, of the Constitution provides that the State shall promote with special care the interests of children and youth so as to ensure their full physical, mental, moral, religious and social development, to protect them from exploitation and discrimination and that a number of laws have been enacted to protect children. The Committee noted, however, that it was alleged that protective laws were not adequately respected and enforced and that the main reason for the abuse of child labour was the lack of deterrent punishment.

The Committee notes the Government's information in its report and the survey on child employment in the passenger transport annexed to the report.

The Committee has also taken note of the documents submitted by the Sri Lankan participants in the Asian Regional Seminar on Children in Bondage (Islamabad, Pakistan, 23-26 November 1993). This seminar was organized by the ILO in collaboration with the Government of Pakistan and the UN Centre for Human Rights and was attended by participants from Bangladesh, India, Nepal, Pakistan, Sri Lanka and Thailand; it included judges, lawyers, labour officials, members of employers' and workers' organizations, and officials of national and regional non-governmental organizations concerned with bonded labour. The participants formulated and adopted a Programme of Action against Child Bondage.

In relation to the situation in Sri Lanka the documents submitted refer to instances of forced child labour to be found essentially in domestic service. It is stated that child servants are mostly brought from the rural areas to the urban households by agents. In many situations, the parents lose contact with the children who virtually become abandoned and have no alternative but to remain with their masters. It is recorded that the Women and Children's Bureau of the Police Department has received over 1,000 complaints over the last few years of children being subjected to inhuman treatment such as being beaten or burnt by their masters, but the actual statistics would undoubtedly be higher. Such domestic servants are stated to be harassed, physically tortured and sexually abused by their masters; some are badly maimed and mentally scarred for life. Many end up in prostitution where they continue to be exploited. Although some employers are arrested and tried, they constitute a microscopic minority and the majority of employers get away as the children are either frightened or have no means of alerting the authorities. The Committee notes that the report on child labour in Sri Lanka, published by the ILO in 1993, refers to newspaper reports and cuttings which indicate that some children have been starved, some battered, burnt or tortured to death. The Committee also notes that in its comments the Jathika Sevaka Sangamaya points to the employment of children in domestic service and states that the Convention is not applied satisfactorily due mainly to the shortage of labour inspectors.

The documents also refer to bonded child labour in fishing camps (wadiyas) situated in small islands off the north western and eastern coasts. These children are removed from their parents, in payment of a small sum of money, under the false promise of a brighter prospect. They are not allowed to leave the islands and become virtual slaves. The unrest prevailing in these regions seems however to have made it difficult for such camps to operate in these areas and the Government indicates in its report that child labour in fishing camps is not a frequent occurrence.

The Committee notes the above comments and documents. The Committee hopes that the Government will supply information on the application of the Convention in law and in practice with regard to the situation referred to in these comments and documents, including full particulars on the following: measures taken or envisaged as concerns adoption and enforcement of penal sanctions against exploiters of forced child labour, in particular in domestic service; inspections carried out and prosecutions engaged and any measures adopted to establish an adequate and efficient law enforcement machinery; rehabilitation measures for rescued children; any other measures for the protection of children against forced labour.

Referring also to the above-mentioned Programme of Action against Child Bondage adopted by the participants in the Islamabad Seminar, the Committee hopes that the Government will provide information on any national action programme adopted or envisaged to combat child servitude.

2. Referring to its previous comments the Committee notes that the state of emergency proclaimed on 20 June 1989 under Part II of the Public Security Ordinance (Chapter 40), 1947, has been renewed monthly since that date and remains in force. The Committee notes that under section 10 of the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 1989, also still in force, the President may order to require any person to do any work or render any service in aid, or in connection with, the national security or the maintenance of essential services. Contravention or failure to comply with the requisition order is an offence and punishable, in addition to any other penalty imposed by the court, by forfeiture of all property. The list of essential services contained in the schedule to Regulations No. 1 of 1989, such as modified subsequently, comprises inter alia services, work or labour necessary or to be done in connection with the export of commodities, garments and other export products. The Committee recalls that the Ceylon Workers' Congress in comments made on the application of the Convention has previously indicated that the President has published a series of regulations empowering officials to require any person to do any work or render any personal service under the menace of penalties.

Referring to the provisions of Article 2, paragraph 2(d), of the Convention and to the explanations provided in paragraphs 63 to 66 of its 1979 General Survey on the Abolition of Forced or Compulsory Labour, the Committee recalls that recourse to compulsory labour under emergency powers is to be limited to circumstances which endanger the existence or well-being of the whole or part of the population. It should be clear from the legislation itself that the power to exact labour is limited to what is strictly required to cope with such circumstances. The Committee requests the Government to provide information on measures taken or envisaged to this effect.

3. The Committee has noted that under the provisions of section 41 of the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 1 of 1989, relating to the maintenance of and obstruction to essential services, a person who fails or refuses to attend his workplace, or to perform work to which he is directed (section 41, paragraph 1(a) to (c)) is deemed to have forthwith terminated or vacated his employment, notwithstanding anything to the contrary in any other law or terms or conditions of a contract governing his employment. The Committee requests the Government to indicate whether the provisions of the Essential Public Services Act No. 61 of 1979 remain applicable.

4. In previous comments the Committee referred to the Compulsory Public Service Act No. 70 of 1961 imposing on graduates an obligation to perform compulsory public service for up to five years under penalty of a fine for every day's failure to discharge this duty (sections 3(1), 4(1)(c) and 4(5)). The Government indicated that the Act was not implemented in respect of medical officers and that no enforcement of the provisions of the Act had come to the Government's notice. The Committee notes the Government's information in its latest report that there are no reported instances of prosecutions against any graduates under this law. The Committee again expresses the hope that the Government will indicate measures contemplated or adopted to amend or repeal the Compulsory Public Service Act.

Sudan (ratification: 1957)

The Committee notes with regret that the Government's report has not been received. It notes the discussion which took place in the Conference Committee in 1992. In previous comments, the Committee took note of several documents of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (such as documents E/CN.4/Sub/AC2/1988/7/Add.1; E/CN.4/Sub.2/1988/32; E/CN.4/Sub.2/1989/39 and E/CN.4/1992/55) referring to allegations of slavery practices.

The Committee notes the Government's statement to the Conference Committee that it completely denied these allegations. All Sudanese were totally free and had equal rights and duties. The law prohibited any form or exercise of the slave trade and the Government did not feel obliged to provide any information since no allegations had ever been brought to a tribunal and such practices did not exist in the first place.

The Committee notes the Criminal Act of 1991. It observes that, according to section 163, whoever commits forced labour on any person by unlawfully compelling him to work against his will shall be punished with imprisonment for a term not exceeding one year or with a fine or with both.

The Committee notes that in a document submitted to the UN Committee on the Rights of the Child, Anti-Slavery International refers to continued allegations of forced labour not only in relation with the Dinka populations but with the Nuba as well. It notes that the Committee on the Rights of the Child in its report of 29 January 1993 (document CRC/C19, dated 2 March 1993) has expressed its concern regarding the issues of forced labour and slavery and has requested additional information on these concerns.

The Committee recalls that Article 25 of the Convention requires that the illegal exaction of forced or compulsory labour be punishable as a penal offence, and moreover makes it an obligation on any Member ratifying the Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Committee observes that the Conference Committee pointed out that various United Nations bodies had reported on cases of slavery and that those allegations could not be considered completely unfounded since the Government did not report in full on the existing situation.

In order to be in a position to consider the situation, the Committee asks the Government to supply full information on the measures taken to ensure the practical application of Article 25 of the Convention, and on the measures taken to protect the Dinka and Nuba populations against any practices contrary to the Convention.

[The Government is asked to supply full particulars to the Conference at its 80th Session and to report in detail for the period ending 30 June 1993.]

United Republic of Tanzania (ratification: 1962)

The Committee notes the Government's report and the discussion which took place in the Conference Committee in 1992.

For a number of years the Committee has been commenting on serious discrepancies between national law and practice and the provisions of the Convention. The Committee noted in particular the following:

- under article 25, paragraph (1), of the 1985 Constitution every person is obliged to voluntarily and honestly participate in lawful and productive work, to observe labour discipline and strive to achieve the individual and communal production targets required or prescribed by law; article 25, paragraph (2), provides that notwithstanding paragraph 1, there shall be no forced labour. However, article 25, paragraph (3)(d), provides that no work shall be considered as forced labour if it is relief work that is part of (ii) compulsory nation-building initiatives, in accordance with the law, (iii) national efforts in harnessing the contribution of everyone in the work of developing the society and national economy and ensuring success in development;
- the Local Government (District Authorities) Act, 1982, the Employment Ordinance, 1952, as amended, the Human Resources Deployment Act, 1983, the Penal Code, the Resettlement of Offenders Act, 1969, the Ward Development Committees Act, 1969, and the Local Finances Act, 1982, under which compulsory labour

may be imposed inter alia by administrative authority, on the basis of a general obligation to work and for purposes of economic development;

- the Committee also took note of several by-laws made between 1988 and 1990 under section 148 of the Local Government (District Authorities Act), 1982, entitled "self-help and community development", "nation-building", "enforcement of human resources deployment", "cultivation of agriculture", "planting and maintaining trees". The Committee noted in this regard for example that under the Mwanga District Council Self-help and Community Development by-laws 1989, Government Notice No. 246 of 20 July 1990, "the Council may direct that any kind of development activities be done by all residents in the affected area within the Council or persons with special knowledge"; while no limitation is imposed on the nature of the projects, the intended beneficiaries or the duration of the participation, full-time employees of Government, Council, the Chama Cha Mapinduzi Party, the parastatal organizations and private companies are inter alia exempted from participation. For other residents, participation is mandatory and enforceable through fines and "extortion of property". Such compulsory labour is not necessarily "minor" nor performed "by the members of the community in the direct interest of the said community" and thus is not confined to "minor communal services" under Article 2(2)(e) of the Convention.
- the constitution of the Chama Cha Mapinduzi (CCM) Party (which was previously the sole political party) sets out as part of its objectives that the CCM seeks to ensure that every able-bodied person works.

The Committee expressed its concern at the institutionalized and systematic compulsion to work established in law at all levels, from the National Constitution through Acts of Parliament to District by-laws, in contradiction with Convention No. 29 and Article 1(b) of Convention No. 105, ratified by the United Republic of Tanzania, which prohibits the use of compulsory labour for development purposes.

The Committee notes the Government's indication to the Conference Committee that an interministerial technical committee was responsible for the consolidation of three labour acts which would revoke the Employment Ordinance No. 366 of 1952, as amended, but that this work was suspended while constitutional amendments were under consideration in the National Assembly. The Committee also notes that the Government referred to a request for Office comments on the revised version of the draft Employment Act which had originally been prepared with the technical assistance of the ILO in 1989. The Committee notes that these comments, including on forced labour provisions were sent to the Government in July 1992 followed by a technical advisory mission in August; it was suggested that the Government list the provisions in all laws that cause difficulties and amend or repeal them, as necessary, in a schedule to the draft Employment Act or another bill.

The Committee notes the Government's indication in its report of November 1992 that lack of an efficient coordinating system renders difficult amending legislation which is not under the sphere of labour legislation. Interministerial consultations continue with a view to rectifying the situation, but will take time. An education exercise nationwide of labour officers has taken place so as to train them in international obligations. Referring to article 25(3)(d)(i) and (ii) of the Constitution the Government considers that they are in conformity respectively with article 2(a) and (b) of the Convention. The Committee observes that its comments did not relate to subparagraph (i) of article 25(3)(d) of the Constitution; as concerns subparagraph (ii) (compulsory nation-building initiatives), the Committee points out that Article 2(a) of the Convention deals with work exacted by virtue of compulsory military service by providing that only work of a purely military character does not come under the purview of the Convention; the scope of subparagraph (ii), which relates to "compulsory nation-building initiatives" is different.

The Committee has noted that further to the by-laws adopted between 1988 and 1990 to which it referred in its previous comments, several by-laws have been adopted in 1991 and 1992 under section 148 of the Local Government (District Authorities) Act, 1982, also entitled "nation-building", "enforcement of human resources deployment", "self-help and community development" as well as "construction and maintenance of village roads".

The Committee can only express once again the hope that the Government will reconsider all the provisions contrary to the Convention, that the draft Employment Act will be brought into conformity with the Convention and that the Government will repeal or amend at an early stage all the provisions contrary to the Convention. In particular action is called for on the following points which the Committee has raised in its comments over a number of years:

Tanzania Mainland

General obligation to work. 1. In previous comments the Committee referred to the Human Resources Deployment Act, 1983, which makes provision for the establishment of machinery designed to regulate and facilitate the engagement of all able-bodied persons in productive work. Under section 3 of this Act, every local government authority shall make arrangements to ensure that every able-bodied person over 15 years of age and resident within its area of jurisdiction engages in productive or other lawful employment; for this purpose, the local authority shall establish and maintain registers of employers and of all residents capable of working (sections 13 and 14), and work out a system which will enable the registered employer to utilise the available registered unemployed residents within its area of jurisdiction (section 20). Under section 17 of the Act, arrangements made by the Minister of Labour and Manpower Development are to provide for the transfer to other districts and subsequent employment of unemployed residents, and under section 24, failure to comply with any provision of the Act is punishable with a fine and imprisonment. Referring to the explanations provided in paragraphs 34 to 37 and 45 to 48 of its 1979 General Survey on the Abolition of Forced Labour, the

Committee pointed out that legislation obliging all able-bodied citizens to engage in a gainful occupation subject to penal sanctions is incompatible with the Convention.

The Committee again expresses the hope that the necessary measures will rapidly be taken to bring the Human Resources Deployment Act into conformity with the Convention and that the Government will indicate the provisions adopted.

2. The Committee previously noted that the Written Laws (Miscellaneous Amendments) (No. 2) Act, 1983, amended section 176 of the Penal Code by inserting, inter alia, a new paragraph (8), punishing "any able-bodied person who is not engaged in any productive work and has no visible means of subsistence". Noting also that persons chargeable under section 176 of the Penal Code may be subjected to administrative measures under the Human Resources Deployment Act, the Committee requested the Government to supply full information on the application in practice of section 176(8), including any court decisions defining or illustrating its scope and any guidelines followed by administrative authorities in deciding who is chargeable under this provision. The Committee hopes once more that the Government will re-examine section 176(8) of the Penal Code in the light of the Convention and the explanations provided in paragraphs 34 to 37 and 45 to 48 of the 1979 General Survey on the Abolition of Forced Labour, referred to above, and that it will indicate the measures taken or contemplated in this regard to ensure the observance of the Convention.

Compulsory labour for public purposes and development schemes. 3. In comments made over a number of years, the Committee observed that, contrary to the Convention, Part X of the Employment Ordinance permits forced labour to be exacted for public purposes, and section 6 of the Ward Development Committees Act, 1969, gives ward development committees the power to make orders requiring all adult citizens resident in the area of the ward to participate in the implementation of any scheme for agricultural or pastoral development, the construction of works or buildings for the social welfare of residents, the establishment of any industry or the construction of any public utility. The Committee noted previously the Government's indication that the non-conformity of Part X of the Employment Ordinance, and section 6 of the Ward Development Committees Act would be corrected when the new Labour Code would be adopted.

Referring also to the aforementioned draft Employment Act, the Committee hopes that the necessary action will soon be taken to bring Part X of the Employment Ordinance and section 6 of the Ward Development Committees Act into conformity with the Convention and that the Government will indicate the provisions adopted to this end.

4. The Committee had previously noted that under paragraph 103 of the first schedule to section 118(4) of the Local Government (District Authorities) Act, 1982, the performance of unpaid communal labour or the payment of compensation in lieu thereof may be required for a wide range of purposes "not barred by the Convention respecting the use of forced labour".

Referring to paragraphs 36 and 37 of its 1979 General Survey on the Abolition of Forced Labour, the Committee requested the Government to indicate any measures taken or envisaged to ensure that such a requirement is limited to emergency work required by circumstances endangering the existence or well-being of the population, or to minor communal services - i.e. primarily maintenance work - performed in the direct interest of the local community and not intended to benefit a wider group. The Government indicated previously that in practice the local government legislation was used only for communal works for the benefit of the community, resulting from decisions of the community.

The Committee had, however, noted that by-laws imposing compulsory cultivation on resident landholders had indeed been made by district councils and approved by the national Government and that, under section 148 of the Act, by-laws may be adopted by district councils, subject to the consent of the Minister, for carrying into effect and for the purpose of any of the functions conferred by or under the Act or any other written law.

Referring also to the recent example, mentioned before, of sweeping by-laws made under section 148 of the Act and providing for compulsory labour for development purposes, the Committee hopes that paragraph 103 of the first schedule to section 118(4) of the Local Government (District Authorities) Act, 1982, will be amended so as to remain within the limits of Article 2, paragraph 2(d) and (e), of the Convention, and that measures will also be taken to ensure that no by-laws providing for the imposition of compulsory labour are approved under section 148 of the Act.

5. Compulsory cultivation. The Committee has noted that the Local Government Ordinance and following its repeal, the Local Government (District Authorities) Act, 1982, and section 121(e) of the Employment Ordinance (as amended by Act No. 82 of 1962) empower local authorities to impose compulsory cultivation. By-laws which restrict the production of food crops and oblige resident landholders to cultivate and maintain a fixed area of cash crops, under pain of a fine and imprisonment have indeed been made by district councils and approved by the national Government.

The Committee trusts that the necessary measures will be taken without further delay to bring the Local Government (District Authorities) Act, 1982 and section 121(e) of the Employment Ordinance, as well as any by-laws made and approved thereunder into conformity with the Convention, and that the Government will indicate the provisions adopted to this end.

6. Article 2, paragraph (2)(c), of the Convention. In previous comments, the Committee noted that sections 4 to 8 of the Resettlement of Offenders Act, 1969, and sections 4 and 17 of the Resettlement of Offenders Regulations, 1969, permit resettlement orders, with an obligation to perform compulsory labour, to be made by administrative decision. In addition, under sections 26 and 27 of the Human Resources Deployment Act, the Minister shall make such arrangements as will provide for a smooth and coordinated transfer or any other measure which will

provide for the rehabilitation and full deployment of persons chargeable, or previously convicted under sections 176 and 177 of the Penal Code. In its report for the period ending 15 October 1988 the Government stated that since work in the United Republic of Tanzania can only be exacted from a person as a consequence of a conviction in a court of law, it follows, therefore, that no compulsory labour can be imposed by an administrative or non-judicial body. The Committee again expresses the hope that the provisions of the Resettlement of Offenders Act, 1969, and the Resettlement of Offenders Regulations, 1969, referred to above, which appear to authorise the imposition of compulsory labour by administrative order will accordingly be amended so as to ensure in law that no compulsory labour may be imposed on offenders otherwise than as a consequence of a conviction in a court of law, and that the Government will indicate the action taken to this end.

Thailand (ratification: 1969)

The Committee notes that the Government has requested a direct contacts mission in connection with the problems encountered in the application of the Convention.

Consequently the Committee is suspending the examination of the questions raised in its comments of previous years regarding the application of the Convention.

United Kingdom (ratification: 1931)

With reference to its previous comments regarding the privatization of prisons and work performed by prisoners or detainees, the Committee notes the information provided by the Government in its report.

The Committee notes that the Criminal Justice Act, 1991 assented on 26 July 1991, provides that certain prisons may be contracted out by contract between the Secretary of State and another person (section 84); such prisons are run by a director appointed by the contractor and approved by the Secretary of State, and controlled by a Crown servant appointed by the Secretary of State (section 85). The Committee notes the Government's information in its report that the Act enables the Government to seek tenders from the private sector for the management of the new remand prisons; the first contract was signed in November 1991 for a period of five years and was to become operational in April 1992. It relates to the remand prison of Wolds which can accommodate 300 untried or unsentenced prisoners; it is estimated that at any time there will be around 50 convicted but unsentenced prisoners.

The Committee also notes the Government's indication in its report that under the prison rules, unconvicted prisoners cannot be required to work, but that for convicted prisoners work is compulsory. At Wolds work will apply to domestic requirements and to a small area of the prison designated as a multi-skills workshop.

Prisoners will receive pay and the work will provide training for prisoners choosing to participate.

The Committee further notes the Government's indications concerning control, discipline, inspection and monitoring; in this connection the Committee notes that the Chief Inspector, independent of the prison service, establishes an annual report on conditions in and running of prisons.

The Committee requests the Government to provide detailed information on the number of prisons contracted out and of prisoners concerned, the wages paid in relation to the normal minimum wages applicable in the different work sectors and other details on social security benefits and on deductions made from pay. The Committee also requests the Government to supply a copy of the annual report of the Chief Inspector of Prisons concerning prisons contracted out.

Zaire (ratification: 1960)

The Committee notes the information supplied by the Government in its report.

1. In comments it has been making for many years, the Committee has referred to the following texts:

- the provisions of Act No. 76-011 of 21 May 1976 concerning national development efforts, which require, under penalty of penal sanctions, every able-bodied adult person who is a national of Zaire and who is not already considered to be making his contribution by reason of his employment (political representatives, wage earners and apprentices, public servants, tradesmen, members of the liberal professions, the clergy, students and pupils), to carry out agricultural work and other development work laid down by the Government. It also noted the measures to implement the Act laid down in Departmental Order No. 00748/BCE/AGRI/76 of 11 June 1976;
- sections 18 to 21 of Legislative Ordinance No. 71-087 of 14 September 1971 on minimum personal contributions, which provides for the imprisonment with compulsory labour of tax defaulters by decision of the chief of the local community or the area commissioner, as a means of recovering the minimum personal contribution.

For many years the Government has referred to draft amendments to the provisions in question. The Committee hopes that the Government will indicate the measures taken to bring these provisions into conformity with the Convention and that it will provide a copy of the texts adopted for this purpose.

2. The Government also stated its intention of repealing Ordinance No. 15/APAJ of 20 January 1938 respecting the prison system in native districts, which allows work to be exacted from detainees who have not been sentenced. The Government stated that this text had fallen into disuse and was contrary to Ordinance No. 344 of 17 September 1965 governing prison labour. The Committee notes the indications in the Government's report that, following a critical analysis of the laws and regulations concerning the organization and operation of the judicial system, the Supreme National Conference has

decided to reform the penitentiary system and repeal certain provisions of the law to ensure that detainees are integrated into society and contribute to the community. Detainees will maintain all the rights to which free men are entitled except the right to come and go freely.

The Committee hopes that the provisions to be adopted will be consistent with those of Article 2, paragraph 2(c), of the Convention and that the Government will provide information on any developments in this regard.

3. In its previous comments, the Committee stressed the need to include a provision in the national legislation establishing penal sanctions for persons who unlawfully exact forced or compulsory labour, in accordance with Article 25 of the Convention. The Committee noted the Government's indication that it was planned to insert such a provision into the draft of the revised Labour Code.

The Committee notes the Government's indications in its report that, in view of the changes in labour relations and personal freedoms, the draft of the revised Code has to be updated. The Committee trusts that the final draft will prohibit forced or compulsory labour under penalty of really effective penal sanctions and that the Government will provide a copy of it.

Zambia (ratification: 1964)

In its previous comments, the Committee observed that regulations 40 and 41 of the Preservation of Public Security Regulations, under which public officers and employees in certain services may be prohibited from leaving their employment, were not consistent with the Convention.

It notes the indications in the Government's reports for 1991 that regulation 40 has been revoked by statutory instrument No. 181 of 1990 and that the repeal of regulation 41 was being examined.

The Committee notes this information with interest. It hopes that the Government will provide a copy of statutory instrument No. 181 of 1990, together with information on any changes relating to regulation 41 referred to above.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Australia, Bahamas, Barbados, Bulgaria, Burkina Faso, Cape Verde, Central African Republic, Comoros, Congo, Costa Rica, Côte d'Ivoire, Djibouti, Dominica, Dominican Republic, Egypt, France, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, India, Islamic Republic of Iran, Ireland, Italy, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Malaysia, Mali, Mauritania, Nicaragua, Niger, Pakistan, Papua New Guinea, Paraguay, Peru, Saudi Arabia, Senegal, Solomon Islands, Sri Lanka, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, United Republic of Tanzania, Trinidad and Tobago, United Arab Emirates, Yemen, Zaire, Zambia.

Information supplied by Portugal in answer to a direct request has been noted by the Committee.

Convention No. 30: Hours of Work (Commerce and Offices), 1930

Bolivia (ratification: 1973)

See under Convention No. 1.

Chile (ratification: 1935)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the information supplied by the Government in its reports, which were received by the Office on 16 January and 13 November 1989 and include replies to its previous comments.
>
> In its previous comments, the Committee requested the Government on several occasions to take the necessary measures to amend section 36 of Legislative Decree No. 2200 of 1978 (as amended by Act No. 18018 of 1981 and by Act No. 18372 of 1984) so as to authorise overtime by workers in commerce only through regulations issued after consultation with the employers' and workers' organizations.
>
> The Committee also referred to section 42 of Legislative Decree No. 2200 (as amended), which permitted the parties to agree to work two additional hours in the day in jobs which, by their nature, do not harm the health of the worker. Furthermore, by virtue of section 43(2) of the same Legislative Decree, working hours that exceed the normal working week, of which the employer is aware, were authorised as overtime hours, even in the absence of a written agreement.
>
> The Committee notes that the new Labour Code (Act No. 18-620 of 6 July 1987), section 454 of which repeals the above Legislative Decree No. 2200, does not change the previous situation. It is therefore bound to point out that exceptions to normal working hours are only permitted in the cases laid down in Article 7, paragraphs 1 and 2, and that the maximum number of additional hours of work which may be allowed must be determined in the day in respect of permanent exceptions and yearly as regards temporary exceptions (Article 7, paragraph 3). Furthermore, these exceptions must be determined after consultation with the workers' and employers' organizations concerned (Article 8).
>
> The Committee requests the Government to take the necessary measures to bring its legislation into full conformity with the Convention on these various points.

Iraq (ratification: 1965)

Article 7, paragraph 3, of the Convention. Further to its previous comments, the Committee notes with interest the statement by the Government to the effect that legislative measures have been taken to determine the number of additional hours of work which may be allowed in accordance with this provision of the Convention. It notes that the text of the Act will be supplied as soon as it has been published.

Article 11, paragraph 2(a) and (b). The Committee notes, in reply to its previous questions, Instructions No. 8672 of 22 August 1989 which establish the obligation for employers to post at the workplace hours of work and rest periods.

Kuwait (ratification: 1961)

See comments made under Articles 1, 2 and 6, paragraphs 1(b) and 2, of the observation on Convention No. 1.

Morocco (ratification: 1974)

With reference to its previous comments, the Committee notes the Government's indications in its report that the legislative part of the draft Labour Code has recently been submitted to Parliament.

The Committee hopes that the new regulations will give full effect to the provisions of the Convention, in accordance with the comments made by the Committee in a new direct request.

It requests the Government to supply the amended text of the Labour Code as soon as it has been adopted.

Nicaragua (ratification: 1934)

See under Convention No. 1.

Paraguay (ratification: 1966)

See the comments made under Convention No. 1 concerning section 205 of the Labour Code.

Syrian Arab Republic (ratification: 1960)

See the comments made under Convention No. 1.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Equatorial Guinea, Ghana, Guatemala, Lebanon, Morocco.

Convention No. 32: Protection against Accidents (Dockers), (Revised), 1932

Algeria (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In the comments it has been making for several years, the Committee has referred to the absence from national law of provisions to give effect to the Convention. The Committee noted that a model statute concerning dockers was to be prepared pursuant to Act No. 78/12 of 5 August 1978.
>
> In its latest report, the Government indicated that it has not lost sight of the need for, and urgency of, implementing the specific texts provided for in the Health and Safety Enabling Act and that the emphasis was being laid on the preparation and adoption of the technical texts.
>
> The Committee hopes that the Government will adopt as soon as possible the necessary measures to ensure compliance with the Convention and that it will report on the progress made in that respect.
>
> 2. The Committee noted from the Government's report the adoption of several texts of regulations which were enumerated in the report; it asks the Government to supply with its report a copy of the Interministerial Order of 5 November 1989 concerning procedure for supervising the processes of loading and unloading dangerous goods.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Italy (ratification: 1933)

The Committee notes the information supplied by the Government in its last report.

It notes that for a very long time the protection of dockers against accidents has been governed by a large number of port regulations prepared and adopted by local authorities, of which several have been transmitted by the Government. The Committee has pointed out in its comments on several occasions that, in these circumstances, it is impossible to determine, with the exception of certain provisions which are applied by legislative means, the extent to which the Convention is applied in Italy.

On many occasions in its reports and in the information supplied to the Conference, the Government has stated its intention of preparing a general text, in the form of a law or regulations on safety and the prevention of accidents in dock work and that this text would give full effect to the Convention throughout the national territory and would replace the local regulations issued by port authorities.

The Committee recalls that in its reports for a number of years, as well as in the information supplied to the Conference Committee in 1982, the Government stated that draft legislation had been prepared to empower the Government to regulate in a uniform manner matters relating to occupational safety and health in ports. Currently, according to the Government's last two reports, a new draft is under examination, and the differences of views between the various authorities which are competent in the matter still have to be settled, with a view to ensuring the safety of dockers in accordance with the Convention.

The Committee retains its hope that the Government will make every endeavour to ensure that a text which gives effect to the Convention is adopted in the very near future.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Pakistan, Panama, Uruguay.

Convention No. 33: Minimum Age (Non-Industrial Employment), 1932

A request regarding certain points is being addressed directly to Burkina Faso.

Convention No. 35: Old-Age Insurance (Industry, etc.), 1933

Chile (ratification: 1935)

The Committee notes the information supplied by the Government in its report, and of the discussions which took place at the Conference Committee in 1992.

1. Article 9, paragraph 1, of the Convention. In reply to the Committee's previous comments on this provision of the Convention which requires employers to share in providing the financial resources of the insurance scheme, the Government again indicates that the Individual Capital Accumulation Pension System, established by Legislative Decree No. 3500 of 1980, did not envisage any compulsory contribution by employers to the worker's Pension Fund, since that Fund is constituted by the worker himself with the compulsory contribution which his employer deducts from his wages every month, with such contributions as the worker may pay voluntarily into his individual capital accumulation account, and with such voluntary deposits as the worker may make as savings in what is termed a voluntary savings account. Furthermore, Legislative Decree No. 3500, section 18, provides for a voluntary contribution by employers to the constitution of the Fund's resources in the form of "Agreed Deposits" consisting of such sum or sums which they deposit in agreement with the workers, individually or collectively, in the individual capital accumulation account. Lastly, the Government reiterates that to

specify who bears the costs serves no purpose since, in wage negotiations, the employer always takes account of the gross wage and the worker, the net wage, and that the problem is therefore only one of accounting.

The Committee takes note of this information. However, it observes once again that section 18 of Legislative Decree No. 3500 of 1980, as amended by Act No. 18964 of 1990, cannot be regarded as establishing a contribution by employers to the financial resources of the compulsory insurance scheme within the meaning of Article 9, paragraph 1, of the Convention, in as much as this merely tends to be a possible supplementary contribution upon which the worker may agree with his employer without there being any legal obligation on the employer to bear the cost. Consequently, the Committee once again expresses the hope that the Government will adopt the necessary measures to give effect to the recommendations of the Committee set up by the Governing Body to examine the representation submitted by the National Trade Union Coordinating Council (CNS) of Chile, under article 24 of the Constitution, alleging non-observance by Chile of, inter alia, Convention No. 35 (see document GB.234/23/28, 234th Session, 17-21 November 1986).

2. Article 9, paragraph 4. In response to the Committee's previous comments concerning the financial contributions of the public authorities, the Government reiterates that the State's contribution to the Fund's resources is subsidiary and is laid down in sections 73 et seq. of Legislative Decree No. 3500 of 1980 as a state guarantee in respect of minimum old-age, invalidity and survivors' benefits for those insured persons who satisfy the requirements laid down in the Decree. The reason why the State's contribution is subsidiary is that the individual capital accumulation system encourages workers to save more during their active life with a view to obtaining a higher old-age pension. Consequently, the Committee is bound once again to refer to the conclusions of the Committee set up by the Governing Body, that "although the present legislation provides for the possibility of some financial participation by the State in the form of a guarantee, this participation, given its conditional and thereby exceptional nature, does not strictly correspond to the contribution to the financial resources or benefits of insurance schemes" prescribed by the Convention. The Committee again expresses the hope that the Government will adopt the necessary measures to give full effect to this provision of the Convention.

3. Article 10, paragraphs 1 and 2. In response to the Committee's previous comments, the Government reiterates in its report that the individual capital accumulation system provided for in Legislative Decree No. 3500 of 1980 entrusts the administration of the insurance scheme to institutions called "Pension Fund Administrations" (AFPs), which are limited liability companies which may be set up on the initiative of workers or their associations and it may be specified in by-laws that the profit they make shall be devoted to the grant of other social benefits to worker shareholders and their families. These institutions are entitled to payment from members, in the form of commissions. Accordingly, they are profit-making companies and were created as such, so that they would perform the task entrusted to them more effectively, and because the increased

competition to attract new members would reduce the costs of their services. The Committee notes this information. However, it also notes the statement of the Government representative at the Conference Committee in 1992 that Act No. 19069 of 1981 allows trade union organizations, federations and confederations to set up their own pension fund administrations and does not require them to be limited liability companies.

In these circumstances, the Committee is bound to recall once again the recommendations of the Committee set up by the Governing Body, that the Government should adopt appropriate measures to amend Legislative Decree No. 3500 to ensure that the insurance scheme is administered by non-profit making institutions, as prescribed by these provisions of the Convention, except in cases where the administration of the scheme is entrusted to institutions founded on the initiative of the parties concerned or their associations and duly approved by the public authorities. The Committee also asks the Government to provide the text of Act No. 19069 of 1991, together with information on any new AFPs founded by workers' organizations, including those that are not limited liability companies.

4. Article 10, paragraph 4, of the Convention. In reply to the Committee's previous comments, the Government indicates that Legislative Decree No. 3500 of 1980 does not provide for any compulsory mechanism whereby members of an AFP participate in the administration and direct management of the funds, except in the case of AFPs founded by workers. However, it does not prohibit such participation. Under the new system, there is a different form of participation whereby each worker is free to join whichever fund best suits him, either because a given fund yields greater profits than others, or because it requires lower commissions, or because it provides better services. Giving such a choice to the worker is the best form of participation in the administration of resources because it compels private companies to constantly improve their management of resources, which is to the direct benefit of members.

The Committee takes note of this information. It again refers to the conclusions of the Committee set up by the Governing Body that "the participation of insured persons in the management of the AFPs results neither from the current legislation nor from the statutes of these limited liability companies, which make no reference to them or to any occupational organizations ...". Consequently, the Committee again expresses the hope that the Government will give effect to the recommendations of the Committee referred to above, and adopt the necessary measures so that the representatives of the insured persons may participate in the management of all insurance institutions under conditions to be determined by national laws or regulations, in accordance with the provisions of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

France (ratification: 1939)

Article 12, paragraph 3, of the Convention. In reply to the Committee's previous comments concerning the supplementary allowance of the National Solidarity Fund (FNS) provided for in section L.815-2 of the Social Security Code, the Government states that the ministerial consultations concerning the question of the extension of the provision of this allowance to the whole of the foreign population resident in France have not yet been completed. It adds that such an extension would have a very high immediate financial impact which would have to be wholly borne by the state budget; this would be difficult in view of budgetary and economic constraints. The Committee notes this information. It hopes that following the above ministerial consultation the Government will be able, in accordance with this provision of the Convention, to take the necessary measures to extend, in both law and practice, the coverage of the supplementary allowance of the FNS to the nationals of member States which are bound by the Convention and not only to the nationals of countries which have concluded an international reciprocity agreement.

(See also under Convention No. 118, article 3, paragraph 1, branch (d) (Invalidity benefit).)

* * *

In addition, a request regarding certain points is being addressed directly to France.

Convention No. 36: Old-Age Insurance (Agriculture), 1933

Chile (ratification: 1935)

See under Convention No. 35.

[The Government is asked to report in detail for the period ending 30 June 1994.]

France (ratification: 1939)

See under Convention No. 35.

* * *

In addition, a request concerning certain points is being addressed directly to France.

Convention No. 37: Invalidity Insurance (Industry, etc.), 1933

Chile (ratification: 1935)

The Committee takes note of the information supplied by the Government in its report and in particular of the statistical data on the compulsory invalidity insurance scheme.

1. Article 10, paragraph 1, of the Convention. See under Convention No. 35, Article 9, paragraph 1.

2. Article 10, paragraph 4. See under Convention No. 35, Article 9, paragraph 4.

3. Article 11, paragraphs 1 and 2. See under Convention No. 35, Article 10, paragraphs 1 and 2.

4. Article 11, paragraph 4. See under Convention No. 35, Article 10, paragraph 4.

[The Government is asked to report in detail for the period ending 30 June 1994.]

France (ratification: 1939)

See under Convention No. 35.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, France.

Convention No. 38: Invalidity Insurance (Agriculture), 1933

Chile (ratification: 1935)

The Committee takes note of the information supplied by the Government in its report and in particular of the statistical data on the compulsory invalidity insurance scheme.

1. Article 10, paragraph 1, of the Convention. See under Convention No. 35, Article 9, paragraph 1.

2. Article 10, paragraph 4. See under Convention No. 35, Article 9, paragraph 4.

3. Article 11, paragraphs 1 and 2. See under Convention No. 35, Article 10, paragraphs 1 and 2.

4. Article 11, paragraph 4. See under Convention No. 35, Article 10, paragraph 4.

[The Government is asked to report in detail for the period ending 30 June 1994.]

France (ratification: 1939)

See under Convention No. 35.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, France.

Convention No. 42: Workmen's Compensation (Occupational Diseases) (Revised), 1934

Bahamas (ratification: 1976)

The Committee notes with regret that for the second year in succession the Government's report has not been received, and that its three last reports contain no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee had noted the information furnished by the Government in its reports (received in September 1983 and January 1984) to the effect that steps were being taken to amend the third schedule to the National Insurance (Industrial Benefits) Regulations, 1975, issued under the National Insurance Act.
>
> The Committee expressed the hope that the amendment would be made very shortly and that the above-mentioned schedule would be completed on the points that attention had already been called to, in order to give full effect to the Convention.
>
> *Article 2 of the Convention*. 1. Item 1(1) and (p), of the third schedule to the 1975 Regulations mentions only some of the *halogen derivatives of hydrocarbons of the aliphatic series* (for example: tetrachlorethane and methyl bromide), whereas the Convention, which is drafted in general terms on this point, covers all the halogen derivatives of these hydrocarbons.
>
> 2. Item 2 of the third schedule to the 1975 Regulations, which concerns *anthrax infection*, does not mention among the activities likely to lead to this disease the loading and unloading or transport of merchandise in general, as the Convention does.
>
> 3. Item 7 of the third schedule to the Regulations, which relates to *pathological manifestations due to X-rays and radioactive substances*, covers only certain of the manifestations caused by exposure to X-rays, ionizing particles or other radioactive substances. The Convention, which is drafted in general terms on this point, covers, without enumerating them all, manifestations that may be caused by such exposure, including those that do not appear in the third schedule of the Regulations (for example: bronchial cancer, cancer of the thyroid; ocular lesions, cataracts, irritations, keratitis; possible lesions of the internal organs and the effects on the development of the embryo).
>
> The Committee again requests the Government to indicate in its next report the measures taken or envisaged to bring the schedule of the national legislation into full conformity with the Convention on the above-mentioned points.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Guyana (ratification: 1966)

The Committee notes the information provided by the Government in its report and to the Conference Committee in 1992. It notes in particular that its previous comments were taken into consideration and that recommendations have been put up for examination by the Government based on the assistance and advice received from the ILO. The Committee therefore once again hopes that measures will be taken in the very near future to complete the list of occupational diseases attached to Regulation No. 34 of 1969, taking into account the following points:

(a) Nos. 1(x), (xi), (xii) and (xiv) on this list are to be replaced by a heading containing in general terms all halogen derivatives of hydrocarbons of the aliphatic series;

(b) No. 7, which refers to certain disorders due to radiation should include all pathological manifestations due to radium and other radioactive substances or X-rays and the list of processes likely to induce these should be completed;

(c) Nos. 1(i) and (v) relating to poisoning by lead and its compounds and mercury and its compounds should include lead alloys and mercury amalgams respectively;

(d) No. 1(iii), which refers to poisoning by phosphorus and its compounds, should include the inorganic compounds of phosphorus;

(e) to No. 2 should be added among the processes likely to induce anthrax infection, all loading and unloading or transport of merchandise of any kind;

(f) silicosis with or without pulmonary tuberculosis and the industries or processes involving the risk of this infection should also be added to the list.

The Committee also hopes that an explicit reference to the direct consequences of poisoning caused by arsenic and benzene (Nos. (iv), (vii) and (viii) of No. 1 of the list attached to Regulation No. 34 of 1969) will be included in the list of occupational diseases.

Haiti (ratification: 1955)

In reply to the Committee's previous comments, the Government states that it has taken note of the lack of machinery for prevention, supervision and follow-up and collection of statistical data on occupational diseases and the number of workers in high-risk occupations and industries. The Government states that there are no technical staff specializing in occupational diseases to set up such machinery and refers to the need for ILO technical assistance in this area.

The Committee takes note of this information. It hopes that, in due course, appropriate measures will be taken, with technical assistance from the ILO if necessary, to establish an infrastructure which, inter alia, will gather information, including statistics, on the practical application of the Convention, in accordance with point V of the report form adopted by the Governing Body.

Papua New Guinea (ratification: 1976)

With reference to its previous comments, the Committee notes with satisfaction that the list of occupational diseases contained in the schedule to the Workers Compensation Act of 1978 was amended by section 11 of the Workers Compensation (Amendment) Act of 1990 and is now in full conformity with the list of occupational diseases contained in Article 2 of the Convention.

Convention No. 44: Unemployment Provision, 1934

Peru (ratification: 1962)

With reference to its previous comments, the Committee notes the information supplied by the Government in its report in which it refers to the consultations held with the representative organizations of employers and workers to establish an unemployment insurance scheme in accordance with the fundamental provisions of the Convention. The Government states that it has received partial replies and is awaiting further information in order to be able to give a more comprehensive opinion.

The Government refers to the provisions of Act No. 24514 of 1986 regulating the right to employment stability, as well as the supplementary provisions in this respect (Presidential Decree No. 003-88-TR, of 1988) and the Employment Promotion Act of 1991. The Committee notes that the above texts contain provisions which enable workers to benefit from compensatory benefits in the event of the termination of the employment relationship, but that they do not provide for an unemployment insurance system in accordance with the provisions contained in the Convention.

The Government refers to the difficult economic situation through which the country is passing and the heavy economic burden of social security contributions. In the Government's opinion, an unemployment insurance system which accords with the provisions of the Convention would be unacceptable, since it would have to be financed by contributions paid by the State, employers and workers, who would not be in a position to undertake such obligations.

The Committee also notes the comments of the Trade Union of Employees of Hierro Perú, which were transmitted to the Government in October 1992, in which the consequences are described of a programme to rationalize the labour force, which affected 850 workers in January 1992. A subsequent reduction in staff is alleged to affect another 700 workers, but no programme has been established to deal with their uncertain economic future. The Front for the Defence of the Rights of the People of Marcona also contacted the Office to support the comments made by the Trade Union of Employees of Hierro Perú.

In its reply, the Government states that it inherited an economy which was in a totally chaotic state, and that the situation of public enterprises was critical. Among the measures which have been envisaged, Hierro Perú has been included in the process of the promotion of private investment, and has been privatized and now operates under another name. It states that the privatization programme was based on the concept of reorienting the economy towards the market in order to improve the living standards of the population.

The Committee is bound to emphasize the importance of giving effect to the obligations deriving from the Convention, which was ratified in 1962, and which contains standards relating to unemployment insurance and various forms of relief for the unemployed. It requests the Government to supply information on this matter in its next report.

Convention No. 47: Forty-Hour Week, 1935

Requests regarding certain points are being addressed directly to the following States: Finland, New Zealand.

Convention No. 50: Recruiting of Indigenous Workers, 1936

A request regarding certain points is being addressed directly to Guatemala.

Convention No. 52: Holidays with Pay, 1936

Côte d'Ivoire (ratification: 1961)

The Committee notes the discussions that took place in the Conference Committee in 1992 concerning the application of Articles 2 and 4 of the Convention. It also notes the Government's last report which contains no new information in reply to the comments that the Committee has been making for many years. The Committee recalls that section 108, subsection 2, of the Labour Code provides that a collective agreement or individual employment contract may provide for a qualifying period of between one year and 30 months of actual service for entitlement to holiday. This provision is not consistent with the Convention, which specifies that any agreement - collective or individual - to relinquish the right to an annual holiday with pay of at least six working days after one year of continuous service should be void. In the Conference Committee, the Government indicated that the draft Labour Code which would abolish the above-mentioned subsection was in March 1992 submitted for re-examination by a technical committee of the Ministry of Employment and Public Service, which was asked to do its utmost to ensure that the draft was sent to Parliament before the end of the year. The Committee trusts that the Government will take the necessary measures at the earliest possible date to ensure that the Convention is applied.

Morocco (ratification: 1956)

Article 2, paragraph 1, of the Convention. The Committee notes the information supplied by the Government in reply to its previous comments, to the effect that section 218 of the draft Labour Code provides that the accumulation or division into parts of annual holiday cannot have the effect of reducing the annual holiday taken to less than 12 working days falling between two weekly rest days. It notes that the draft has been approved by the Council of Ministers and that the discussion of the draft in Parliament began in May 1992. The Committee hopes that the Labour Code will be adopted in the near future. It asks the Government to report on any progress made and to provide the text of the new Code in due course.

Myanmar (ratification: 1954)

The Committee notes from the Government's latest report that the Factories Act (1951), the Shops and Establishments Act (1951) and the Leave and Holidays Act (1951) have been redrafted taking into consideration the Committee's previous comments, and that the revised texts are now under final review by the Laws Security Central Body. The Committee hopes that these revised texts will be adopted and transmitted to the Office in the very near future and that they will ensure the application of the Convention to all undertakings set forth in Article 1 of the Convention, particularly small establishments, shops and offices in certain places, and building and public works and road transport undertakings, and especially on the following points:

Article 2, paragraph 2. Every person under 16 years of age should be entitled to an annual holiday with pay of at least 12 working days after one year of continuous service, whereas under section 4(1) of the Leave and Holidays Act workers between 15 and 16 years are only allowed ten days.

Article 4. Any agreement to forgo or relinquish the right to the minimum annual holiday with pay laid down in the Convention (i.e., six working days, or, in the case of persons under 16 years of age, 12 working days) must be void, whereas section 4(3) of the same Act allows agreements to accumulate earned leave.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Argentina, Lebanon.

Convention No. 53: Officers' Competency Certificates, 1936

Mauritania (ratification: 1963)

Article 3 of the Convention. Further to its previous observations, the Committee notes the Government's report as well as the results of the ILO's direct contacts mission in May 1992. It notes with interest that the technical assistance of the ILO has been sought by the Government, and in principle agreed to by the Office, in order to draft legislative amendments that will enable the competent national authority to grant certificates of competency or approve foreign ones, as well as to help it obtain the required technical knowledge and material means to put such legislation into operation. The Committee welcomes this information and expects to be kept informed of the progress made in putting national legislation and practice in full conformity with the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, Finland, France, Ireland, Liberia, Peru.

Convention No. 55: Shipowners' Liability (Sick and Injured Seamen), 1936

Liberia (ratification: 1960)

With reference to its general observation, the Committee notes that the Government's report has not been received. In its previous observation the Committee referred to Article 1, paragraph 2 (scope of the protection to be extended to vessels of 25 tons and above); Article 2, paragraph 1 (liability of the shipowner in cases of sickness or injury occurring between the dates specified in the articles of agreement for reporting for duty and the termination of the engagement); Article 2, paragraph 3 (exclusion of the shipowners' liability in respect of sickness or death directly attributable to sickness if at the time of the engagement the person employed refused to be medically examined); and Article 6, paragraph 2(d) (necessity of obtaining the competent authorities' approval for the repatriation of a seaman to a port other than where he was engaged or the voyage commenced or to a port other than in his own country). The Committee hopes that progress will be made in future in the enactment of legislation on these points and that details will be provided.

Convention No. 58: Minimum Age (Sea) (Revised), 1936

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee has been pointing out for some years in its observations that under section 290(2)(a) of the Maritime Law (as amended by the Merchant Seamen's Act, 1964), the provisions laying down the minimum age for admission to employment at sea do not apply to vessels of less than 75 net tons and that, under section 326(1) of the same Law, those provisions apply only to vessels engaged in foreign trade. These exclusions are not in

conformity with the Convention, which applies to all ships and boats, of any nature whatsoever, engaged in maritime navigation.

The Committee hopes that the Government will take the necessary action to ensure the application of the Convention in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Grenada, United Republic of Tanzania, Turkey.

Convention No. 59: Minimum Age (Industry) (Revised), 1937

Pakistan (ratification: 1955)

In its previous comment, the Committee noted the adoption of the Employment of Children Act, 1991, which in section 2(iii) defines "child" as a person who has not completed his fourteenth year of age. Section 19 of the Act prescribes that the definition of "child" contained in the Factories Act, 1934, and the Mines Act, 1923, shall be deemed to be amended in accordance with the definition in section 2 of the above Act. The Factories Act, 1934, and the Mines Act, 1923, established the minimum age for access to employment at 15 years of age, in accordance with Article 7, paragraph 4(a) and (b), of the Convention.

The Committee notes the communication from the Pakistan National Federation of Trade Unions, dated 3 August 1992, concerning the contradiction regarding the minimum age for access to employment established in the legislation.

The Committee notes that the Government's report does not contain a reply to its previous comment. It requests the Government to indicate the measures which have been taken or are envisaged to ensure that children under the age of 15 years shall not be employed or work in mines, quarries and other works for the extraction of minerals from the earth, and in other dangerous or unhealthy occupations which are prohibited to them in accordance with Article 7, paragraph 4, of the Convention.

Philippines (ratification: 1960)

In its previous comments, the Committee noted that a draft amendment to article 139 of the Labor Code prohibited the employment and work of persons under 15 years of age and limited the exceptions to undertakings in which only members of the employer's family are employed.

The Committee notes that on 17 June 1992, Parliament adopted section 12, Rule VIII of Republic Act 7610, which provides that children below 15 years of age may be employed provided that the employer: secures a work permit; ensures the protection, health, safety and morals of the child; institutes measures to prevent exploitation and discrimination (level of remuneration, working time); formulates and implements a continuous programme for training and skill acquisition.

The Committee recalls that, under the Convention, the only exception to the minimum age for admission to employment is employment in undertakings in which only members of the employer's family are employed. It also notes that a Bill to prohibit the employment of children under 15 years of age in public and private industrial enterprises, amending section 12, Rule VIII of Republic Act 7610 and section 139(a) of the Labor Code, as amended, was transmitted to Parliament on 1 September 1992.

The Committee requests the Government to provide information on any measures adopted to bring the legislation into conformity with the Convention on this point.

Sierra Leone (ratification: 1961)

With reference to its previous comments, the Committee notes the Government's report and the draft Employment Act prepared with the ILO's assistance which prescribes the age of 16 years for admission to employments likely to jeopardize the life, health or morals of young persons, so as to give effect to Article 5 of the Convention. The draft Act also provides that "the employer shall keep a register of all children under the age of 18 years employed by him and of dates of their birth", in accordance with Article 4 of the Convention. The Committee hopes that the new Act will be adopted in the near future in order to ensure complete conformity of the national legislation with the Convention on these points and that the Government would be able to transmit the text of the new Employment Act in the near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Ghana, Guatemala, Lebanon, Philippines.

Convention No. 62: Safety Provisions (Building), 1937

Algeria (ratification: 1962)

1. The Committee notes the information supplied by the Government in its latest reports. It notes with interest Executive Decree No. 91-05 of 19 January 1991 respecting the general safety and health provisions to be applied in the working environment, a copy of which was supplied with the Government's last report. The Committee notes that certain provisions of the above Decree partly give effect to some provisions of the Convention, including Article 8, paragraph 2(a) and (c) (work platforms and gangways to be closely boarded and suitably fenced), Article 9, paragraph 1 (openings in floors or

working platforms to be provided with suitable means to prevent the fall of persons or material), and Article 12, paragraph 1 (hoisting machines and tackle to be examined periodically).

2. Further to its previous comments, the Committee notes from the information supplied by the Government in its last report that special regulations to take account of certain standards covered by the Convention were in the course of being promulgated. The Committee refers to the draft Decree respecting specific provisions for the building and public works sector and the draft Decree respecting inter-enterprise health and safety committees in the building and public works sector, and hopes that they are reproduced in the above-mentioned regulations and that the Government will do everything in its power to ensure that the regulations are adopted very shortly.

3. The Committee notes from the Government's last report that statistics of industrial accidents for the years 1986-90 were in the process of being published. The Committee hopes that, in accordance with Article 6 of the Convention, the Government will communicate to the ILO the latest statistical information relating to the number and classification of occupational accidents in the building industry.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Egypt (ratification: 1982)

The Committee notes the information supplied by the Government in its reports which were received in 1988 and 1991, as well as the additional information supplied in 1992.

In its previous comments the Committee noted that the national legislation contains no provisions respecting scaffolds, hoisting appliances and the information of the persons concerned, as provided for in Articles 3(a), 7, 8, paragraphs 1(a) and 2(a), 14, paragraph 3, and 15, paragraphs 2 and 3, of the Convention to ensure safety in the building industry.

The Committee notes that, in its communication of February 1992, the Government states that it is undertaking a revision of the national legislation and that the Ministry of Labour has established working groups to re-examine ratified and unratified Conventions relating to the protection of workers with a view to ensuring their strict application. The Government therefore requests time to enable it to resolve the points raised in the previous comments and states that it will take into consideration the provisions of the Convention when amending the Labour Code and Order No. 55 of 1983 respecting the conditions and protective measures necessary to ensure safety and health at the workplace.

The Committee takes due note of these indications. It recalls that the Government already stated in its report received in 1986 that the revision of Title V of the Labour Code, concerning safety and health, was under way and that instructions respecting scaffolds would be included, during the revision, in ministerial orders adopted under the above Title of the Labour Code. The Committee therefore hopes that the necessary measures will be adopted in the near future to bring the law and regulations into conformity with the standards set out in the Convention with regard to the safety of scaffolds and hoisting appliances and the information of the persons concerned with regard to the provisions adopted in this respect, and that the Government will report the progress achieved.

Netherlands (ratification: 1950)

The Committee has noted the information supplied in the Government's report for the period 1987-91 as well as the observations made by the Netherlands Trade Union Confederation (FNV) on the application of the Convention and the Government's reply to these observations, communicated by the Government in March 1992.

I. Lifting equipment

1. The Committee notes that the Netherlands Trade Union Confederation (FNV) is reasonably satisfied with regard to the implementation of provisions concerning lifting equipment, but mentions, among its concerns, that lifting equipment should be tested for reliability before the start of each new building project. In its reply, referring, inter alia, to section 141(4) of the Factory and Workplace Safety Regulations 1938 (VBF), the Government indicates that a crane must be checked and tested before the commencement of a new construction project, but not by the KEBOMA foundation, which has been designated only for the periodical checks and tests on mobile and tower cranes; the employers themselves bear the responsibility for carrying out the necessary checks and tests before the commencement of a new construction project. The Committee observes that under Article 12(1) of the Convention, hoisting machines and tackle shall be examined and adequately tested after erection on the site and before use, and under Article 4, a system of inspection is to ensure the effective enforcement of laws and regulations relating to safety precautions in the building industry. Noting also the view of the FNV that in general terms, the inspection capacity of the labour inspection services is too limited, the Committee hopes that the Government will indicate the measures taken to ensure that there is maintained a system of inspection adequate to ensure the effective enforcement of laws and regulations relating to safety precautions in the building industry, including section 141(4) of the VBF.

2. In its comments, the FNV also points out that a lifting certificate is not required for operators of cranes at certain relevant work sites (for instance carpenters' yards); in its view, this shortcoming should be remedied. The Committee notes that in its reply, the Government indicates that at the moment only the operators of cranes being used on buildings, construction, earth and hydraulic engineering, underground piping and ducts which are under construction, being installed, extended, renovated or demolished or are undergoing maintenance work, have a hoist licence; the notes on section 212 of the VBF indicate that the desirability of the obligation to have a hoist licence in other branches and sectors of industry is being investigated. However, the Government notes that in

practice, hoist crane operators often carry out other work in other sectors where the hoist licence does not apply; the group of operations which is carried out by the non-hoist licence holders is relatively small as a result. Referring to Article 13(1) of the Convention, the Committee hopes that the necessary measures will be taken to ensure that every crane driver or hoisting appliance operator is properly qualified, and that the Government will indicate the measures adopted to this end.

II. Scaffolding

3. As regards scaffolding, the Committee notes the view expressed by the FNV that while in formal terms, the provisions of the Convention may be met, in practice, the following deficiencies are noted: no specific provisions are made regarding the skills and expertise required of workers who build scaffolds and supervise their construction; there is no periodical inspection of scaffolding equipment nor inspection of scaffolds before building activities start; there is a general obligation for employers to inform workers, but no specific provision for information about scaffolding; the inspection capacity of the Labour Inspectorate is considered insufficient.

In its reply, the Government refers to the provisions of section 212ter of the VBF concerning the experience required of workers who build scaffolds, their supervision by an expert, and the regular checking of scaffolds by an expert. The Government further refers to a preliminary draft of a proposed EC directive to amend the Directive of November 1989 concerning safety and health in the use of tools at the workplace (89/655/EEG); under this draft, construction scaffolds must be approved after each assembly at a new location before the commencement of operations; implementation of this amendment directive is expected before the end of 1994. The Government indicates that the general obligation of employers to clearly inform employees on the nature of their work (section 6, Factories Act) means that scaffolders must be extensively informed about everything concerning the construction of scaffolds, and that more detailed information from government authorities are deemed unnecessary. Finally, the Government considers that the Inspectorate of Works has sufficient capacity for the tasks allocated to it, which do not, however, include checking every scaffold construction, since this is the task of an expert, as indicated in section 212ter of the VBF.

The Committee takes due note of these indications. It hopes that, in conformity with Article 7(8) of the Convention, the proposed directive to ensure the inspection of scaffolds after each assembly at a new location will soon be made operative, and that the Government will indicate the measures taken to this end. Furthermore, referring to Article 3(a) of the Convention, the Committee hopes that in addition to the general obligation to clearly inform employees on the nature of their work, employers will be required to bring the laws or regulations for ensuring the application of the provisions of the Convention regarding scaffolds to the notice of all persons concerned, i.e. builders and users of scaffolds, in a manner approved by the competent authority. Finally, as regards the capacity of the Labour Inspectorate to ensure the effective enforcement of laws and regulations relating to safety precautions (Article 4 of the Convention), the Committee, noting also the statistical information supplied on the number of violations, closure orders and occupational accidents in the construction industry and building installations companies, looks forward to the Government's sending further information on the relevant activities of the Inspectorate.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Egypt, Malta.

Convention No. 63: concerning Statistics of Wages and Hours of Work, 1938

Algeria (ratification: 1962)

Parts II and IV of the Convention. The Committee notes that, according to the Government's report, the National Statistical Office has embarked upon the reorganization and strengthening of its structures in order to improve the collection, compilation and dissemination of statistics, particularly concerning wages and hours of work. It hopes that the statistical data obtained following these reforms will be transmitted to the Office in the near future. It also requests the Government to supply information concerning the scope of these statistical inquiries, the types of data compiled and the publications in which the data are published.

Part III. The Committee notes the information supplied by the Government concerning the rate of the guaranteed national minimum wage and the level of family allowances. It once again hopes that the Government will take the necessary measures to compile, publish and transmit to the Office statistics of time rates of wages and of normal hours of work in accordance with Articles 13 to 23 of the Convention.

Panama (ratification: 1971)

Parts II and III of the Convention. With reference to its previous comments, the Committee notes the information supplied in the Government's report that a programme of annual economic surveys is planned to be conducted as from 1994, following the fourth national economic census, and that it is planned to collect more detailed information on hours worked and normal hours of work by means of the manufacturing industry survey (Encuesta de Industria Manufacturera), after the fourth economic census.

The Committee requests the Government to continue supplying information to the Office concerning progress made relating to statistics of wages and hours of work.

Uruguay (ratification: 1954)

1. With reference to its earlier comments, the Committee notes with satisfaction that progress has been made concerning the following points:

(a) the absolute figures of average earnings and hours of work for the representative occupations in the individual manufacturing and construction industries are compiled and published with respect not only to Montevideo but also to the interior of the country, as well as the indices of average earnings calculated on the basis of these figures;

(b) the new directory of establishments has been set up following the third national economic census, which has shown that mining accounts for less than 0.3 per cent of total employment;

(c) a new survey of wages, labour cost and hours of work (Encuesta nacional de remuneraciones) has been carried out on a sample basis, using the new directory of establishments as the sample frame.

2. The Committee requests the Government to indicate whether the new directory of establishments is being used as the sample frame for the index of average earnings (Article 12 of the Convention); and whether the "Encuesta nacional de remuneraciones" will be repeated on a regular basis.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Djibouti, Egypt, Guatemala, Ireland, Myanmar, Nicaragua, Sri Lanka, Syrian Arab Republic.

Convention No. 64: Contracts of Employment (Indigenous Workers), 1939

A request regarding certain points is being addressed directly to Guatemala.

Convention No. 67: Hours of Work and Rest Periods (Road Transport), 1939

A request regarding certain points is being addressed directly to Peru.

Convention No. 68: Food and Catering (Ships' Crews), 1946

Panama (ratification: 1971)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Whilst various questions as to ships' cooks are being considered under Convention No. 69, the Committee would be glad if the Government would in addition deal with the following matters referred to previously:
>
> Article 1. The Committee notes the Government's policy of minimizing the exceptions to the Convention; exceptions made are said to concern, amongst others, coasters. Since these are covered by the Convention, so long as they are sea-going (and even if they are under 500 GRT or built before 1971), the Committee hopes the Government will now indicate how far the application of the Convention to them is in practice ensured.
>
> Article 2(a) and Article 5(2)(a). The Committee notes the Government's indication that Resolution No. 603-04-62-ALCN of 16 June 1988 concerning certification of seafarers is a first step in promoting provisions as to the quantity, nutritive value, quality and variety of food and water supplies on board ship. It trusts further steps will soon be taken to ensure the legislation required in this respect by the Convention, and that the next report will include details.
>
> Article 3. The Committee notes with interest the indication that ensuring the co-operation of shipowners' and seafarers' organizations is one of the aims of the current IMO/UNDP project (PAN 86/008) concerning the maritime sector in Panama, although the project document transmitted does not refer to this point. It notes also that the shipowners' attitude to both inspections and corrective measures has been positive. The Committee hopes progress will now be made in obtaining such co-operation, as required by the Convention, and that details will be supplied.
>
> Article 10. The Committee notes the annual reports for 1985-87 of the Panama Bureau of Shipping attached to the Government's report. It trusts that such reports will in future be issued as soon as practicable each year and made available to all concerned, including the ILO.
>
> Article 11. The Committee hopes the next report will include details of all measures relating to the training and refresher courses required by the Convention.

Peru (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the communication of the Trade Union of Crews of Petroleum Transoceanica S.A. in which the Union states that section 070105 of the Regulations concerning food and

catering on board ship, approved by Supreme Decree No. 047 DE/MGP of 1990, provides a cash equivalent of the food ration for crew who have, for any reason, to feed themselves ashore which is inferior to the protection required under the Convention. In its view the Convention is binding and under article 57 of the Peruvian Constitution cannot be renounced, so that all contrary provisions or agreements such as sections 070105 and 070106 of the above Regulations are void. It adds that in cases of any doubts as to the scope and contents of any such provisions the interpretation should be in favour of workers.

The Government has replied that the provisions in question do not relate to the obligation in respect of food and catering on board ship, which is fulfilled by the company.

The Committee recalls that the Convention requires the promotion by the ILO member State for which it is in force of a proper standard of food and catering for the crews of vessels (Article 1(1)). Legislation on food and catering arrangements should be designed to secure the health and well-being of crews, with food and water supplies which are suitable in respect of quantity, nutritive value, quality and variety (Article 5). The Committee notes also that the competent authority should work in close cooperation with the organizations of shipowners and seafarers in regard to these matters (Article 3). It would be grateful if in its next report the Government would indicate the nature of the difficulties met with and the results of any consultations undertaken. Please also indicate what steps might be taken in this light.

United Kingdom (ratification: 1953)

1. Article 5(1) and (2)(a) of the Convention. Further to its previous comments, the Committee notes with satisfaction that the provisions of Regulations SI 1871/1972, 733/1975 and 36/1978, whereby different scales of provisions were prescribed for seafarers "ordinarily resident" in different countries, have been revoked by the Merchant Shipping (Provisions and Water) Regulations, 1989 (SI 102/1989), regard being had to the requirements of the Convention.

2. In respect of inspection arrangements required by the Convention, the Committee notes the information provided in reply to its earlier observation, which followed comments received from certain workers' organizations. It notes in particular the transfer of inspection responsibilities on shore to the port health authorities, alongside Department of Transport surveyors. At the same time, the 1991 report on inspection of ships' provisions shows the continuing need for vigilance as regards both supplies and catering spaces and equipment. The Committee hopes the Government will continue to transmit details of these arrangements and how the Convention is applied in practice, having particular regard to inspection requirements in Article 6; and that it will indicate any further steps taken, perhaps through collective agreements, in the light of

Regulation 5 of SI 102/1989, to ensure that weekly inspections at sea cover also such spaces and equipment (Article 7(1)(b)).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Argentina, Egypt, Italy.

Convention No. 69: Certification of Ships' Cooks, 1946

Requests regarding certain points are being addressed directly to the following States: Djibouti, Norway.

Convention No. 73: Medical Examination (Seafarers), 1946

A request regarding certain points is being addressed directly to Uruguay.

Convention No. 74: Certification of Able Seamen, 1946

A request regarding certain points is being addressed directly to Guinea-Bissau.

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

Spain (ratification: 1971)

Article 2 of the Convention. The Committee noted the allegations made by the General Workers' Union (UGT) and the Trade Union Confederation of Workers' Commissions (CC.OO), in 1991, supplied by the Government, stating that the Convention lacks legal coverage in the country; that, in practice, verification as to whether the young person has been considered fit for work by a qualified physician is not required; that the authority competent for sending the document attesting fitness for employment of the young person and defining conditions of work, has not been determined.

The Committee asked the Government to submit comments on this matter.

The Committee notes that in its report the Government indicates that the medical attestation for young persons working in industrial activities is required in some cases by the relevant labour ordinances, the Act on the hiring of labour of 1944 (section 178) and Decree No. 1036 of 1959 and its Regulations. The Government adds that the fitness for work of young persons is attested by means of an "optional certificate" issued by the corresponding medical practitioner. It also indicates that the requirement of medical examinations is established more specifically in certain collective agreements. The Government also refers to the Bill on occupational health, and indicates that medical examinations are to be carried out when the worker so requests or gives his consent.

The Committee notes the comments made by the General Workers' Union (UGT) in 1992, in which the Union reiterates that the general provisions on this subject do not ensure adequate protection for young people and that the collective agreements on their own do not offset this inadequacy. For its part, the Trade Union Confederation of Workers' Commissions (CC.OO) indicates that non-observance of the Convention is particularly serious in Spain in view of the high rate of unemployment in the country, especially among young people, and that the Bill on occupational health, currently being debated, makes no mention of the medical examination of young persons.

The Committee observes that the Act on the hiring of labour of 1944 which provided, in section 178, that the medical examination of young persons was compulsory, was repealed by Act No. 8 of 1980 issuing the Workers' Charter. In this connection, the Government states that the Act on the hiring of labour may continue to be partly applied as a regulation under final provision No. 4 of the Workers' Charter which establishes that provisions of laws that regulate matters not covered by the Charter itself shall remain in force as regulations.

The Committee notes from the comments made by the two above-mentioned trade union organizations that it is not clear which national laws give effect to the requirements of the Convention and that in practice, the provisions of the Convention are not applied. The Committee tends to consider that the fact that there is no obligation explicitly laid down in recent laws and that there is uncertainty as to whether section 178 and the requirement laid down in it apply may well be linked to the fact that the requirement of the Convention is not observed in practice. The Committee also observes that the texts of the various collective agreements supplied by the Government contain provisions on annual medical examinations for all workers; none of them refers to the medical examination for the admission of young people to employment.

The Government also refers to section 6, II(a), of Decree No. 1036 to reorganize enterprise medical services, under which it is a function of company doctors to provide medical attestation for admission to employment for the purpose, inter alia, of establishing fitness. The Committee draws the Government's attention to the fact that, in accordance with the Convention, the requirement of a detailed medical examination in order to attest fitness for the employment of young persons must be explicitly established. Such examination is particularly important in order to ensure the special and specific protection that the Convention affords to this category of worker.

The Committee asks the Government to examine the issues that have been raised in the light of the Convention and to inform it on the measures taken or under consideration to ensure the observance thereof. The Committee hopes that the adoption of the Act on occupational health will make it possible for the national legislation and practice to be brought into line with the Convention.

Article 1, paragraph 1. In earlier comments the Committee asked the Government to take the necessary measures to apply the provisions concerning the medical examination for fitness for employment to young persons who, without being wage earners are employed in family undertakings, as provided for in the Convention. In this connection, the Committee notes that the General Workers' Union (UGT) has stressed in its comments the absolute lack of protection of these young persons who are not covered by the regulations on occupational health.

In its report, the Government admits that young persons who are not engaged on account of an employer are excluded from the scope of the provisions on medical examination.

The Committee hopes that when the necessary measures are taken to give statutory effect to the requirement of a medical examination for fitness for employment, such requirement will be extended to young persons working in family industrial undertakings.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Lebanon, Luxembourg, Peru.

Convention No. 78: Medical Examination of Young Persons (Non-Industrial Occupations), 1946

Spain (ratification: 1971)

Article 2 of the Convention. The Committee refers the Government to the comments in its observation on the application of Convention No. 77.

Article 7, paragraph 2. The Committee notes that according to the comments presented by the General Workers' Union (UGT) and the Trade Union Confederation of Workers' Commissions (CC.OO), failure to comply with the requirement of a medical examination for admission to employment for young persons is much more serious in the case of young persons who are engaged on their own account in non-industrial work, employed in domestic service or are engaged on their own account or the account of their parents in itinerant trading or in any other occupation carried on in the streets, because the legislation has not determined the measures of identification for ensuring the application of a system of medical examination to such young persons.

The Committee notes the indications contained in the Government's report concerning the sanctions established in Act No. 8 of 1988 for non-observance of provisions of laws, regulations or agreements which determine high or imminent risks for the personal safety or health of the workers; under the same Act, failure to carry out initial and periodic medical examinations for workers constitutes a serious violation.

The Committee observes that the general nature of such provisions does not preclude but rather increases the need to establish expressly by law, in conformity with the Convention, the requirement of a medical examination for fitness for employment of young people engaged in non-industrial occupations and to determine the measures of identification necessary for ensuring the application of the system to such young people.

The Committee hopes that the Government will take into consideration the matters that have been raised concerning the situation of national laws and practice with regard to the application of the Convention and that it will indicate the measures taken or envisaged to ensure that the Convention is observed.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Lebanon, Luxembourg, Peru.

Convention No. 81: Labour Inspection, 1947

Bahamas (ratification: 1976)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> With reference to its previous comments, the Committee notes the Government's statement to the effect that the Convention is applied by custom and practice and that no progress has yet been made to adopt legislative measures to give effect to its provisions. The Committee trusts that appropriate legislation will be adopted in the near future.
>
> Articles 20 and 21 of the Convention. The Committee notes that no report on the activities of the inspection services has yet been drawn up. Recalling the importance that it attaches to annual inspection reports, the Committee requests the Government to take the necessary measures to ensure that these reports, containing information on the subjects set out in Article 21, are published and transmitted to the ILO within the time-limits set forth in Article 20.

Bolivia (ratification: 1973)

Further to its previous comments, the Committee notes the information supplied by the Government at the Conference Committee in 1992. It hopes that the next report will contain information on the following matters:

Article 5 of the Convention. The Committee notes the information concerning the events and practical actions organized and carried out with the technical cooperation of the Office in order to encourage effective cooperation between the employees of the labour inspectorate and employers and workers or their organizations. It would be grateful if the Government would also provide full information on all other types of more formal or institutionalized contacts, for example in the form of tripartite committees, between the labour inspection services and employers and workers or their organizations.

Articles 6 and 7. The Committee notes the Government's statement that the regulations approved by Ministerial Resolution No. 346/87 have come into force. It also notes with interest that, in order to improve the efficiency of the labour inspectorate, inspection services have been set up in certain districts, and that the total number of inspectors increased by ten between 1991 and 1992. It asks the Government to indicate any measures taken to ensure that labour inspectors receive initial and continuous vocational training, and to continue to provide information on the conditions of employment of labour inspectors.

Articles 10 and 11. The Committee asks the Government to provide detailed information on the improvements in the working environment of labour inspectors since 1989, and on the means of transport placed at their disposal, and to indicate any change in the number of inspectors.

Articles 16, 20 and 21. The Committee hopes that the Government will provide detailed information on the frequency and thoroughness of inspection visits and on all the subjects listed in Article 21 of the Convention. The Committee recalls that inspection reports must be published and transmitted to the International Labour Office. It notes that a request has been made for technical assistance in this regard and hopes that with the help of the Office the Government will be able to overcome the difficulties encountered in compiling and publishing annual inspection reports regularly.

Brazil (ratification: 1989)

The Committee notes the Government's brief report and the indication that the Ministry of Labour is being reorganized and that the Government intends to implement the recommendations made in the Study on Labour Inspection in Brazil. It notes with interest that the Government is endeavouring to modernize the inspection services and has requested ILO technical assistance for this purpose; that the labour inspectors who had been removed from their original functions have now been placed back in their former posts; that inspectors' wages have increased; and that the provision under which enterprises with fewer than ten workers were not subject to inspection has been repealed. It notes, however, that stringent measures must be taken to deal with acts of aggression against inspectors.

The Committee hopes that the Government's next report will contain complete information on the observations, a copy of which was sent to it along with a letter of 4 May 1992, made by the Association of Labour Inspector Agents of Minas Gerais (AAIT/MG), the National Union of Labour Inspection Agents (SINAIT) and the Gaucha Association of Labour Inspectors (AGITRA) concerning the application of the Convention, and on the points still requiring an answer raised in its previous observation which read as follows:

The Committee has noted the information in the Government's first report on the Convention. It has also noted the observations of the Gaucha Association of Labour Inspectors (AGITRA), concerning difficulties encountered by the labour inspection service in regard to various aspects of the Convention. AGITRA indicates that the activities of the labour inspectorate have decreased since 1990, particularly since many posts of labour assessors, doctors and engineers were abolished. This has meant that labour inspectors have had to work in precarious conditions, contrary to the Convention. Inspectors have thus not been able to combat as they would wish serious violations of labour law in respect of slavery and forced labour (including child labour), and withholding of wages and other benefits due to employees (such as adequate food and lodging). This in turn means that, particularly in the present unstable economic situation in the country, the number of violations of labour legislation is increasing dramatically.

The Committee recalls the requirements of the Convention as regards the function of labour inspectors in securing the enforcement of the legal provisions relating to conditions of work and the protection of workers, such as provisions relating to hours, wages, safety, health and welfare, and the employment of children and young persons (Article 3(1)(a)); the need for inspection staff to enjoy a status and conditions of service which guarantee them the necessary stability of employment and independence (Article 6); the need to associate medical, engineering and other specialists in the work of inspection (Article 9); and the need to ensure that the number and material conditions of labour inspectors are sufficient to enable workplaces to be inspected as often and as thoroughly as necessary to ensure the effective application of relevant legal provisions (Articles 10, 11 and 16).

The Committee is raising certain other points in a direct request.

Cape Verde (ratification: 1979)

Further to its previous comments, the Committee notes with satisfaction that Decree No. 154/91 contains provisions to implement Articles 3(1) (functions of the labour inspectorate set out in section 3 of the Decree); 5 (cooperation among government departments and with employers and workers prescribed by section 5); 6 (status and conditions of service of inspectorate staff set out in sections 20(1), 28, 29 and 30); 12 (inspectors' powers of entry and examination set out in section 20, and notification of the employer laid down in section 21(2); and 17 (enforceability of legal provisions under sections 9 to 13) of the Convention. It is again raising certain other questions in a direct request.

Central African Republic (ratification: 1964)

Articles 10, 11, paragraphs 1(b) and 2, and 16 of the Convention. Further to its previous observations, the Committee notes that in general the labour inspectorate lacks both the transport and the personnel necessary to discharge its duties effectively. It notes with regret that due to budgetary restrictions the draft designed to ensure the reimbursement of travelling expenses of labour inspectors has not yet been adopted, and the vehicles previously made available have been withdrawn. The Committee hopes the Government will indicate what steps are being taken or envisaged to ensure that workplaces are inspected as often and as thoroughly as necessary.

Articles 20 and 21. The Committee notes that despite earlier statements by the Government no annual labour inspection reports have been supplied as required by the Convention. It hopes the Government will shortly take the necessary measures so that annual labour inspection reports containing detailed information on all the subjects listed in Article 21 will be published and transmitted to the Office within the time laid down in Article 20.

France (ratification: 1950)

1. Further to its previous comments, the Committee takes due note of the information contained in the report on labour inspection in 1990. However, it notes once again that the Government's report under article 22 of the Constitution has not been received. The Committee recalls the obligation to supply a report on the application of the Convention in accordance with the report form adopted by the Governing Body of the ILO. This report, which is a different document from the annual report on the inspection services due under Article 20 of the Convention, should supply all the information required under the report form, including replies to the comments made by the Committee and an indication of the representative organizations of employers and workers to which copies of the report have been transmitted in accordance with article 23, paragraph 2, of the Constitution. The Committee trusts that the Government will not fail to supply the report due under article 22 of the Constitution in time for it to be examined at its next session.

2. The Committee notes with regret that no reply has been received to its previous comments concerning the observations made in 1989 and 1990 by the French Democratic Confederation of Labour (CFDT) and the General Confederation of Labour (Union of Social Affairs/Federation of the Public Service/Labour Inspectorate for Transport). These observations concern the application of Articles 3, paragraph 2, and 10, of the Convention and relate to the sufficiency of the number of inspectors responsible for ensuring the effective functioning of the inspection service and the material resources made available to them. Although noting the general information contained in the annual report of the inspection services for 1990, the Committee trusts that the Government will include in its next report under article 22 of the Constitution any comment that it considers

appropriate concerning the above observations or the measures taken as a consequence of these observations.

3. The Committee notes that the annual report of the inspection services for 1990 reached the ILO in December 1992. It hopes that the Government will publish and transmit annual reports for subsequent years within the time limits set out in Article 20 of the Convention.

Guinea (ratification: 1959)

The Committee notes the observation of the General Union of Workers of Guinea, that the labour inspection service has abandoned essential supervisory activities, concentrating instead on the examination of individual labour disputes and the calculation of severance pay. This has led to acts of corruption by delinquent employers and the loss of inspectors' independence, including the inspectorate's political independence. The Committee would be grateful if the Government would give any reply it considers appropriate to this observation, particularly in the light of Articles 3 and 6 of the Convention regarding the functions, status and conditions of employment of labour inspectors. It hopes the Government will also deal with the matters raised in its previous observation, which read as follows:

> Articles 16, 20 and 21 of the Convention. The Committee notes with regret that the Office has once again not received an annual report on the activities of the inspection services. The Committee recalls the importance of annual inspection reports as an essential means of obtaining evidence of the activities of the inspection services, and showing whether workplaces are being inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions. The Committee understands that the ILO has extended certain technical cooperation in this area and expresses its hope that the necessary measures will be taken to ensure that an annual report on the activities of the inspection service with all the necessary information provided therein will soon be provided.

The Committee has addressed a request for additional information directly to the Government.

Jamaica (ratification: 1962)

The Committee notes that the Government's report has not been received. It notes also that despite repeated invitations the Government failed to take part in a discussion of the Convention's application in the Conference Committee in 1992. The Committee would therefore repeat its previous observation which read as follows:

> The Committee notes the discussion which took place in the Conference Committee in 1990. In particular, the Committee notes that the Government's representative said that the next report on the application of the Convention would show marked improvement in regard to the application of Articles 20 and 21 of the Convention, concerning annual inspection reports. The Committee

is making a direct request to the Government concerning application of those Articles.

Article 13, paragraphs 2(b) and 3. For many years the Committee has been commenting that there are no provisions in national legislation empowering factory inspectors to require measures with immediate executory force in the event of imminent danger to the health and safety of workers. In the Conference Committee discussion in 1990, the Government representative stated that legislative amendments were being pursued through the tripartite Labour Advisory Committee. The Committee now notes the Government's indication that since its last report no change has occurred in the situation. The Committee once again expresses its hope that the necessary measures will soon be taken.

Article 14. In its last observation, the Committee noted that the question of a requirement of notification of occupational diseases was being pursued by the competent authority. The Committee now notes that there has been no change in this respect. It again expresses the hope that progress will be made.

Japan (ratification: 1953)

Articles 16, 20 and 21 of the Convention. Further to its previous observation, the Committee notes that since 1989 the number of inspectors has been increased annually, and that further efforts are made to increase efficiency in the labour inspectorate: in this connection, the Government indicated earlier that account would be taken in particular of trends in the system of hours of work and the situation of non-payment of wages. The Committee notes also that, while the Government continues to indicate there are no practical difficulties in the application of the Convention, the practical information requested in the report form has not been supplied; nor have copies of the annual reports on inspection been received since that for 1985. The Committee hopes all due inspection reports will be transmitted, and that they will contain all the information specified in Article 21. It would be particularly grateful if the Government would include information as to any difficulties in respect of occupational disease (Article 21(f), read together with Article 14) or failure to observe provisions relating to remuneration, which arise in connection with the trends referred to.

Malawi (ratification: 1965)

Articles 10, 11, 16, 20 and 21 of the Convention. With reference to its previous observations, the Committee notes that no annual inspection reports have yet been published, although certain information and statistics provided for in Article 21 are included in the Ministry of Labour's annual statistical bulletins, the latest one being for the fourth quarter of 1987. The Government also states that a staffing review has been completed at the Ministry, inspections are being carried out, and collection of the necessary information is expected. In these conditions, however, the Committee is unable to determine whether the necessary staff and resources are available to the labour inspectorate to ensure that workplaces are inspected as often and as thoroughly as necessary, in accordance with the Convention. It hopes the Government will be able to make progress in the near future and that it will in any event supply full details in its next report on the Convention.

Mali (ratification: 1964)

Articles 6, 10, 11 and 16 of the Convention. The Committee notes the Government's reply to its previous comments. It notes with interest the Government's frank critical assessment of the insufficiency of the strength of the inspectorate, the insufficient training provided to inspectors, the poor and precarious conditions of employment undermining their employment security and independence, and their lack of financial, material and transportation means resulting in general in inspection visits which are both irregular and inadequate. At the same time, the Committee finds some encouragement in the new administrative arrangements referred to in the report; and in the holding of a national tripartite seminar on labour inspection, with ILO participation, in 1992. The Committee would be grateful if the Government would communicate information about any measures it finds possible to improve the situation and it trusts the Government will endeavour to maintain contacts with the competent services of the ILO in this connection.

Articles 20 and 21. The Committee notes that annual inspection reports for the years 1987-91 have not reached the Office. It hopes in future progress may be made in preparing reports containing information on all subjects enumerated in Article 21 and publishing and communicating them within the time-limits set by Article 20. It would be glad if the Government would also supply copies of Ordinance No. 90-63/PRM, Decrees Nos. 90-421, 90-422 and Order No. 90-0598 concerning administration of the labour inspection service.

Mauritania (ratification: 1963)

Article 6 of the Convention. The Committee notes the Government's explanations provided to the ILO direct contacts mission in May 1992 and in its most recent report, that the solution to the questions raised in the Committee's previous comments is linked to the adoption of the draft statute of the labour inspectors and supervisors prepared several years ago with ILO assistance. It further notes the Government's view that the current economic situation would not stand the heavy financial burden that would result from the adoption of the draft statute, although the Government would continue its efforts to improve the situation progressively and adopt the statute in the context of the restructuring of the public service in general. The Committee once again recalls that the draft statute is based on a study that took account of the economic situation in the country as well as the provisions of the Convention and the need to ensure decent working conditions for inspectors. It endorses the view expressed during the direct contacts mission that labour inspection is of central importance in ensuring the implementation of standards, and it hopes progress will be made in adopting a new statute soon.

In a new direct request, the Committee has once again referred to other important questions related to Articles 10, 11, 16, 20 and 21.

Morocco (ratification: 1958)

Further to its previous comments regarding the observation made by the General Union of Workers of Morocco and the Democratic Confederation of Labour, the Committee has noted the information provided by the Government.

Article 2 of the Convention. The Committee notes that, like workers in all sectors of the economy, workers in traditional industry are covered by the labour inspection system, and that two circulars were issued in 1956 and 1974 reminding labour inspectors of this. The Committee points out however that the unions' comments relate not to the formal but to the practical application of the Convention and the conduct of inspection activities, with special reference to the question of widespread employment of children in carpet factories. It requests the Government to provide further indications, including available statistics, in this light.

Article 3(1)(c). The Committee notes that there is no obstacle in national law or practice to labour inspectors bringing to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions. The Committee would be glad if the Government would indicate any express measures to lay down this function for labour inspectors, and if it would provide samples of inspectors' reports under Article 19 dealing with this problem.

Article 3(2). The Committee notes that labour inspectors carry out additional conciliation duties following requests of workers for them to intervene so that employers observe the labour legislation. The Government considers such conciliation work to be an extension of normal supervisory functions which include giving information and advice to employers and workers as to the means of complying with social legislation. The Government states that inspectors are regularly given instructions to conduct a minimum number of inspections each month. The Committee refers to the indications in paragraphs 99 to 102 of its 1985 general survey of labour inspection as regards the need to ensure there is no question of compromising in the enforcement of legal provisions, which is one of the primary functions of the labour inspectorate. It hopes that details will be provided of cases where inspectors have intervened in these circumstances.

Article 5. The Committee notes that cooperation between the social partners is maintained at the enterprise as well as regional levels, all the more because the labour inspectorate is represented in all basic tripartite committees. It hopes future reports will provide indications on the working in practice of such cooperation.

Articles 6 and 18. The Committee notes from the report that the public service laws apply to and ensure the stability of employment of labour inspectors and their independence from all government changes, and that the Government rejects the unions' claims as to employers exercising undue influence.

Article 7(3). The Committee notes the information concerning training arrangements for inspectors. Please provide further indications in future reports on the practical effect given to this provision of the Convention.

Articles 10 and 11. The Committee notes the information on the composition of the labour inspectorate. It hopes the Government will also describe the geographical distribution and the sectoral responsibilities of the inspection staff and the material support provided.

Article 13. The Committee notes the general information provided as regards inspectors' powers to take remedial steps and recalls the provisions of Royal Decree No. 969-65 of 1966 in this respect. In the light of the unions' comments, the Committee hopes the Government will in future describe how these provisions work in practice, including all available statistics.

Articles 17 and 18. The Committee notes the information provided concerning collaboration between the inspectorate and the courts. The Government states that penalties have now been increased. The Committee hopes future reports will deal further with the question of how inspectors enforce legal provisions through the courts.

Articles 20 and 21. The Committee takes note of the copies of the documents published by the Ministry of Employment which bear on the work of the labour inspectorate, and the report on activities including inspection for 1988. It hopes that subsequent annual reports will now be published and sent to the ILO as required, and that they will contain all the information mentioned in Article 21. This will enable the Committee to have a better impression of how the Convention is applied in practice.

Pakistan (ratification: 1953)

Articles 12, 13, 14 and 15 of the Convention. Further to its previous comments, the Committee notes that the amendments to the Factories Act, 1934, the West Pakistan Shops and Establishments Ordinance, 1969, the Payment of Wages Act, 1936, and the Road Transport Workers Ordinance, 1961, have not yet been adopted to comply with the requirements of the Convention. In this regard the Committee draws the Government's attention to the observations made by the Pakistan National Federation of Trade Unions (PNFTU) that most establishments avoid inspection by maintaining the number of workers they have below the threshold for application of the law and as a result they are only subject to the unamended Ordinance of 1969. The Committee urges the Government to take the necessary measures for the early adoption of the legislation in question and it trusts all details will be provided with the next report.

Articles 10, 16, 20 and 21. Further to its previous comments the Committee notes that statistics on the number of the inspection staff are being collected from the provincial governments and will be included in future reports. The Committee hopes they will be published in the annual report of the central inspection authority as required by Article 21(b). It also hopes the Government will provide its comments on the observation made by the PNFTU that the inspection staff in every province is insufficient and inspection activity practically non-existent. The Committee trusts, in future, inspection reports will be published and transmitted to the ILO within the time-limits set in Article 20 and contain all information listed in Article 21, including statistics on the number of the inspection staff which should be sufficient to ensure that inspectors effectively discharge their duties (Article 10) and that workplaces liable to inspection are inspected as often and as thoroughly as necessary (Article 16).

The Committee notes the observations made by the All Pakistan Federation of Trade Unions concerning the enforcement of labour legislation regarding rural workers. However, labour inspection in agriculture is not covered by the present Convention, and Convention No. 129 has not been ratified by Pakistan.

Paraguay (ratification: 1967)

The Committee notes that the Government's report has not been received. Nevertheless, with reference to its previous observation, the Committee notes the information supplied by the Government to the Conference Committee in 1992, and the draft resolution relating to the application of Article 13 of the Convention.

Article 13 of the Convention. The Committee notes with interest the draft resolution referred to above which is intended to ensure the application in law of this Article of the Convention. The Committee also notes that, after the period of time given to the employer to remedy the defects found in a first inspection, a second inspection is carried out, and if the situation is still unsatisfactory sanctions are imposed by means of administrative resolution. These sanctions can also be applied in cases of immediate danger and include the possibility of withdrawing the operating licence of the establishment, as provided, according to the information supplied by the Government, in the Health Code. It is also stated that the most representative organizations of workers and employers were consulted in the preparation of a technical manual containing standards concerning conditions in the workplace and that this manual will be mandatory. The Committee hopes that the draft resolution will be adopted in the near future and that the Government will be able to supply a copy, with the technical manual and the Health Code, with its next report. The Committee also trusts that the Government will supply information on its application in practice.

Articles 10, 16, 20 and 21. The Committee notes that, although the number of inspectors is still insufficient, the Ministry of Labour will in 1993 present a request to the Ministry of Finance for a substantial increase in the number of inspectors and an improvement in the conditions necessary for the effective performance of their duties, which are to be extended. The Government also states that it was taking the necessary measures to remedy the lack of information, with the assistance of the ILO. Furthermore, it indicates that it is analysing the possibility of requesting technical and financial assistance from the ILO in order to evaluate the national situation with respect to working conditions and occupational safety and health. Finally, the Committee notes that Decree No. 43, of 31 March 1992, establishes increases in the fines applicable for non-compliance with labour provisions. The Committee would be grateful if the Government would supply information in its next report on any progress achieved with regard to the above measures. It also recalls the importance that it attaches to the publication of annual reports on the inspection services containing all the information referred to in Article 21 and trusts that the Government will be able to publish such reports and transmit copies of them rapidly to the Office.

Sierra Leone (ratification: 1961)

The Committee notes the Government's reply to its previous comments regarding the serious problems of application of the Convention. It notes that the situation of the labour inspection service, in particular the number of labour inspectors, the frequency of inspection visits, the transport facilities furnished to labour inspectors and the absence of publication and transmission of annual labour inspection reports (Articles 10, 11, 16, 20 and 21 of the Convention), has not improved. The Committee hopes that with the cooperation of the concerned technical department of the Office it will be possible to make some workable proposals for support of various kinds to the inspection services, and that the Government will continue to provide available information on the manner in which the Convention is applied and on any progress made.

Sri Lanka (ratification: 1956)

The Committee notes the information provided in the Government's report and the Labour Administration Reports for 1988, 1989, 1990 and 1991, as well as the observations made by the National Employees' Union (Jathika Sevaka Sangamaya) and the Lanka Jathika Estate Workers' Union.

Articles 3(2), 6, 10, 11, 13, 14 and 16 of the Convention. The Committee notes the reply to its previous comments following the observation of the Ceylon Workers' Congress (CWC) that labour inspectors also function as conciliators under sections 11 to 14 of the Industrial Disputes Act No. 43 of 1950 and engage in administrative and worker education work: the Government considers that these additional duties do not interfere with inspectors' discharge of their primary functions. It also notes the increase in the number of labour inspectors to 407 in 1990 and their status as civil servants that guarantees their stability and independence of employment. The Government has decided to increase further the number of labour inspectors. It states that each district office has been provided with government vehicles and the officers are paid monthly travelling allowances. In 1992 the subsistence allowance of public officers was increased by 100 per cent and travelling arrangements are being studied.

In their observation, the Jathika Sevaka Sangamaya refers to the persistent shortage of funding for inspectors and the complaints received especially against garment factories employing mainly female workers. The Lanka Jathika Estate Workers' Union also refers to fast-growing industries in the free trade zones, using highly sophisticated equipment, dangerous chemicals and extra hours of work for women and young persons, including night work, as well as the growing number of self-employed small industries, all of which necessitates measures to remedy the inadequacies of the inspection services. Response to complaints is not enough: the State should adapt to the needs of the times and exercise its responsibility to protect workers and take prompt corrective action through the labour inspection service.

The Committee hopes the Government's next report will deal specifically with these points, as well as describing further the developments already indicated; and that it will also include information on inspection in the State Mining and Minerals Corporation and the State Gem Corporation mentioned in previous comments by the CWC and the Committee's last observation.

Uruguay (ratification: 1973)

In previous comments, the Committee noted the concern expressed by the workers' organization PIT-CNT at the reduction in the numbers of inspections and of workers protected in the country; and at the incomplete inspection statistics provided. It now notes comments received from the Uruguay Association of Labour Inspectors (AITU), drawing attention to inspectors' conditions of work - in particular their wage levels - which seriously affect their ability to carry out their inspection functions.

In its report, the Government indicates a number of inspectors (74) slightly lower than previously, although it states too that - despite the shortage of vehicles and with the help of transport provided by the Ministry of the Interior - inspection activity increased in 1991 by 428.7 per cent over 1989.

The Committee hopes that in its next report the Government will include information showing how the conditions of service of labour inspectors assure them of stability of employment and all due independence (Article 6 of the Convention). It also hopes that annual inspection reports will be published and transmitted to the Office in accordance with Article 20 and will include all the information called for under Article 21. This will facilitate a better appreciation of how the Convention is applied as a whole, including Articles 7, 9 and 10, as regards the numbers, qualifications, training and specializations of inspection staff.

Yemen (ratification: 1976)

Articles 19, 20 and 21 of the Convention. Further to its previous comments, the Committee notes that no annual report on the activities of the inspection services has been provided. The Government has indicated that the central labour inspection administration was being reorganized following the reunification of the country and merger of the two labour ministries, and that all the information required would soon be sent. The Committee hopes the first annual inspection reports due under the Convention will soon be published and copies provided, and that in the meantime the Government will include all available information in its next report on the application of the Convention.

Zaire (ratification: 1968)

In its previous comments, the Committee noted the need to prepare and publish annual inspection reports in accordance with Articles 20 and 21 of the Convention, and the difficulties encountered by the Government in the application of Article 7, paragraph 3 (the vocational training of labour inspectors), Article 10 (the number of labour inspectors), Article 11 (the transport and other facilities furnished to labour inspectors) and Article 16 (the frequency of inspections). It notes that the Government has supplied very incomplete reports on the activities of the inspection services for the years 1989, 1990 and 1991. These reports, supplemented by brief information in the report on the Convention, appear to confirm that the objective set out in the Convention, which is to ensure that workplaces are inspected as often and as thoroughly as necessary, despite the efforts of the labour inspectors, is still implemented in a very unsatisfactory manner. The Committee notes in this context that the ILO provided assistance to the Government in 1990 to retrain labour inspectors, and that the Government would like to see this assistance renewed, but that, in view in particular of the lack of resources of the inspection services, this assistance cannot by itself ensure that the Convention is applied. In this context, the Committee also notes the information contained in the annual report for 1991 concerning the impact of social and political events in the country and the hope placed in the National Sovereignty Conference by the workers.

The Committee recalls the important contribution that labour inspection can make to economic development and the sound management of rare resources (see paragraphs 55 to 57 of its General Report of 1992). It trusts that the Government will find the means to overcome its difficulties in the application of the Convention by endeavouring, in particular, to supply the inspection services with the human and material resources which are essential for them, and that it will supply all the necessary information in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Barbados, Burkina Faso, Cape Verde, Costa Rica, Djibouti, Dominica, Greece, Guinea-Bissau, Guyana, Jamaica, Kuwait, Lebanon, Madagascar, Mauritius, Mauritania, Panama, Peru, Qatar, Sao Tome and Principe, Solomon Islands, United Kingdom.

Convention No. 84: Right of Association (Non-Metropolitan Territories), 1947

Information supplied by Fiji in answer to a direct request has been noted by the Committee.

Convention No. 87: Freedom of Association and Protecti[illegible] of the Right to Organise, 1948

Antigua and Barbuda (ratification: 1983)

The Committee notes that for the second year in succession the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee refers to its previous comments on the need to amend sections 19, 20 and 21 of the Industrial Courts Act, 1976, which can be applied in practice to place a general prohibition on the right to strike at the initiative of one party, as illustrated by the decision of the Committee on Freedom of Association in Case No. 1296. The Committee notes that this question has been forwarded to the Cabinet for a re-examination of the provisions on the right to strike.
>
> The Committee has acknowledged that the right to strike may be limited in essential services in the strict sense of the term, that is those whose interruption would endanger the life, personal safety or health of the whole or part of the population. In view of the fact that the Act provides that arbitration may be compulsory and can be invoked by only one of the parties, for these provisions to be in accordance with the Convention, the arbitration award would have to be accepted by both parties to the dispute and, failing agreement, the workers should still have the right to strike. With respect to the provisions allowing the grant of an injunction putting an end to a legal strike, the Committee recalls that such measures can only be justified in situations of acute national crisis, and then only for a limited period.
>
> The Committee trusts that the Government will adopt the necessary measures to amend sections 19, 20 and 21 of the Industrial Courts Act, taking into account the above comments. It requests the Government to transmit to it rapidly the text of the amendments and to keep it informed of any new development in this respect.

The Committee trusts once more that the Government will make every effort to take the necessary action in the very near future.

Argentina (ratification: 1960)

The Committee notes the Government's report and the draft text to amend Act No. 23551 on trade union associations, which was prepared with the participation of an ILO advisory mission.

The Committee notes with interest that the above draft text, taking into account the Committee's previous observations, provides for the repeal or amendment of the following provisions which were in contradiction with the Convention: section 30 (which required excessive conditions for granting trade union status to unions representing workshops, occupations or categories of workers); section 28 (which, in order to contest the trade union status of an association, required the petitioning association to have a "considerably higher" number of members); section 38 (which only permitted associations enjoying trade union status, and not associations which were merely registered, to be retained for the purposes of trade union quotas); and section 39 (which only exempted associations with legal personality, and not associations which were merely registered, from taxation).

Nevertheless, the Committee notes that the above draft text has not provided for the modification of the following provisions, whose modification has been suggested by the Committee of Experts and the advisory mission: the excessive conditions set out in law for an enterprise union to obtain trade union status (section 29 of the Act, which provides that "a trade union at the enterprise level may be granted trade union status only when another first-level trade union and/or a union does not already operate within the geographical area or the area of activity or category covered"), nor the provisions which grant privileges to associations which have been granted trade union status in comparison with other associations as regards the representation of collective interests other than through collective bargaining (section 31(a) of the Act, which provides that "associations which have been granted trade union status have the exclusive right to defend and represent the individual and collective interests of workers") and as regards trade union protection (sections 48 and 52 of the Act, which provide that only the representatives of associations which have been granted trade union status enjoy special protection).

The Committee therefore requests the Government to continue to take measures with a view to further harmonizing its legislation with the Convention and hopes that the draft text to amend Act No. 23551 on trade union associations will be adopted as soon as possible and that it will take fully into account the comments of the Committee and will be in complete conformity with the principles of the Convention.

The Committee is also addressing a request directly to the Government.

Barbados (ratification: 1967)

In its previous comments concerning section 4 of the Better Security Act of 1920 (Chapter 160) under which any person who wilfully breaks a contract of service or employment, knowing that he may thus endanger real or personal property, is liable to imprisonment or a fine, the Committee had noted the Government's statement to the effect that this provision had not been invoked for many years and that it was unlikely that its sanctions would be applied, since it was outdated.

Given the Government's statement that it would consider amending this provision of the Act along the lines suggested by the Committee in its previous comments, the Committee requests the Government to supply a copy of the amended Act once adopted.

Belarus (ratification: 1956)

The Committee notes with satisfaction that the Act on trade unions of 22 April 1992 provides for independent trade unions (section 3(1)), voluntary membership (sections 2(1) and 4)) and freedom to organize and carry out actions in defence of workers' rights including the right to strike (sections 2(3), 3(2) and (4), 18(1) and 23(2)).

The Committee is addressing a direct request to the Government on one aspect of this Act which relates to the application of the Convention.

Belgium (ratification: 1951)

With reference to its previous comments on the need to ensure by law that objective, predetermined and detailed criteria are adopted in establishing rules for the access of workers' and employers' occupational organizations to the National Labour Council and the various public and private sector committees in which binding collective agreements are formulated, the Committee takes due note of the Government's statement in its report that the Minister of Employment and Labour is currently preparing a Bill setting out such objective criteria, which will be submitted to the social partners for their opinion and to the Government for approval.

According to the Government, the Minister will state and explain in writing the "unwritten" objective criteria for admission which the Government has applied for some time and which are accepted by the Belgian judiciary. In order to sit on the National Labour Council, occupational organizations must, among other requirements, be nationwide bodies, be present in the great majority of sectors, have stability and a minimum number of contributing members to be checked by an objective body.

The Committee also notes the Government's indication in its report that the National Confederation of Executive Staff (CNC) has been unable to demonstrate that it is representative - it reportedly obtained only 1.76 per cent of the total number of votes cast by all categories of workers at the social elections in June 1991 and is not interoccupational in nature - and did not obtain a seat on the National Labour Council when the latter's membership was renewed in December 1990.

The Committee recalls that it has been commenting on this matter for many years, and expresses the firm hope that the Government will do everything in its power to ensure that the Bill currently being prepared is adopted, in order to preclude any partiality or abuse in the choice of organizations authorized to sit on these bodies, and asks the Government to indicate any progress made in this respect in its next report.

Bolivia (ratification: 1965)

The Committee notes the Government's report and recalls that for many years its comments have been referring to the following points:

- the denial of the right to unionize of public servants (section 104 of the General Labour Act of 1939);
- the requirement of previous authorization for the establishment of a trade union (section 99 of the above Act and section 124 of the Decree issued thereunder of 1943);
- the impossibility of setting up more than one union in an enterprise (section 103 of the Act);
- the wide powers of supervision of the labour inspectorate over the activities of trade unions (section 101 of the Act);
- the possibility of dissolving trade unions by administrative authority (section 129 of the Decree);
- the excessive number required to call a strike (three-quarters of the employees who are in service) (section 114 of the Act and section 159 of the Decree);
- the prohibition of strikes in all public services (section 118 of the Act), including banks and public markets (section 1(c) and (d) of Supreme Decree No. 1958 of 1950);
- the recourse to compulsory arbitration as a means of putting an end to a strike (section 113(c) of the Act); and
- the prohibition of general and solidarity strikes under penalty of six months' detention and six months' internal exile, with a doubling of the sentences in the event of a repetition of the offence (sections 1 and 2 of Legislative Decree No. 02565 of 1951).

The Committee once again notes that, according to the information provided by the Government on other occasions, the Committee's comments concerning the above provisions were taken into account by the commissions which prepared the draft text for the new General Labour Act and that this text is now awaiting the observations, amendments and comments of the most representative organizations of employers and workers before being submitted to the National Congress.

The Committee requests the Government to supply information in its next report on the progress achieved in the adoption of the above draft text and trusts again that in its next report it will be able to note real progress in bringing the legislation into conformity with the Convention.

The Committee is also addressing a direct request to the Government.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Burkina Faso (ratification: 1960)

The Committee notes the information supplied by the Government in its report.

It recalls that for several years it has raised the question of the role of Revolutionary Committee's workers or officials vis-à-vis trade union organizations and has asked the Government to repeal the provisions of zatu No. AN-VI-008-FP/TRAV of 26 October 1988 establishing the general conditions of service of the public service, which require public servants to respect the revolutionary order under penalty of disciplinary sanctions (sections 6, 7, 9, 36 and 46 of the zatu).

While noting with interest articles 21 and 22 of the 1991 Constitution which lays down freedom of association and the right to strike and establishes that trade unions shall carry out their activities without constraints or restrictions other than those provided by law, the Committee is bound to note with regret that, in its last report, the Government confines itself to stating that it has taken due note of the Committee's comments on the zatu.

The Committee trusts that the next report will supply information on the measures taken or envisaged to repeal the above-mentioned provisions of the zatu of 26 October 1988 so as to bring the legislation fully into conformity with the Convention. It asks the Government to report on any developments in this respect.

Cameroon (ratification: 1960)

The Committee notes that the Government's report has not been received. It none the less notes the entry into force of Law No. 92/007 of 14 August 1992 issuing the new Labour Code, and the observations of the Cameroon Workers' Trade Union Confederation (CSTC) and the National Union of Teachers in Higher Education (SYNES).

1. With reference to its previous comments, the Committee notes with satisfaction that the new Labour Code no longer bans foreign workers from holding trade union office as did the former Code (section 10(3)). Section 10(2) of the new Code provides that aliens are required to have resided for not less than five years in the territory of the Republic of Cameroon to be eligible for trade union office Article 2 of the Convention. Furthermore, former section 165(3) which empowered the authorities to call up workers involved in a strike in a vital sector of economic, social or cultural activity, does not appear in the new Code (Article 3).

2. On the other hand, the Committee notes with regret, in connection with the comments it has been making for many years, that the new Labour Code does not repeal Law No. 68/LF/19 of 18 November 1968 which subjects the legal existence of a trade union or

professional association of public servants to the prior approval of the Minister of Territorial Administration.

It also notes that the Cameroon Workers' Trade Union Confederation (CSTC) pointed out that the right to organize of public servants is still subject to restrictions and that under section 6(2) of the new Labour Code any person forming a trade union or employers' association that has not yet been registered and who acts as if the said union or association has been registered shall be liable to prosecution.

Furthermore, the Committee notes two communications from the National Union of Teachers in Higher Education (SYNES) addressed to the ILO on 28 February and 25 June 1992 (a copy of the second communication was addressed to the Government on 7 July 1992), in which the SYNES reports that the authorities refuse to recognize its existence. It also transmits a copy of a letter of 21 October 1991 from the Minister of Higher Education, Computer Services and Scientific Research which merely states that the Law of 19 December 1990 respecting the right of association provides for the adoption of special provisions for professional associations.

The Committee considers that section 6(2) of the new Labour Code is at variance with the established right of workers to form unions without prior authorization. It therefore asks the Government to take the necessary measures to repeal the provisions which are contrary to the Convention, and to guarantee the right of all workers, including teachers in higher education and public servants, to form professional associations without prior authorization, in accordance with Article 2.

3. The Committee also notes that under section 19 of Decree No. 69/DF/7 of 6 January 1969, trade unions or professional associations of public servants may not join a foreign professional organization without obtaining prior authorization from the Minister responsible for supervising fundamental freedoms. It recalls that under Article 5 of the Convention all workers' and employers' organizations have the right to affiliate freely with international organizations and asks the Government to indicate whether any requests to affiliate have been refused and to take the necessary measures to bring its legislation into conformity with the Convention.

4. The Committee raises certain other points in a direct request addressed to the Government.

Canada (ratification: 1972)

The Committee takes note of the information contained in the Federal Government's report, including copies of new federal and provincial legislation and the replies of provincial governments to the Committee's previous observations.

Articles 2 and 3 of the Convention: The right of workers and employers to establish and join organizations of their own choosing without previous authorization; the right to formulate their programmes

British Columbia

In its previous observation, the Committee requested the repeal of Section 80 of the University Act, which limited the right of university teachers to establish organizations of their own choosing by preventing the Industrial Relations Act from applying to university faculty. The Committee notes with satisfaction that the Province of British Columbia has repealed Section 80 of the University Act by the University Amendment Act, 1992, which came into force on 23 July 1992.

In its previous comment, the Committee asked the Government to keep it informed about several provisions of the Industrial Relations Act including: (1) any changes in the arbitration procedures over "ability to pay" that grant the Commissioner of the Industrial Relations Council discretion to modify awards; (2) the definition of essential services and the role of representatives in determining the definition of minimum service; and (3) the nature of conciliation and arbitration procedures offered when the right to strike has been restricted in an essential service.

The Committee notes with interest the adoption of the Labour Relations Code (No. 84) ("the Code"), which became law on 18 January 1993, and which replaces the Industrial Labour Relations Act ("the Act"). The Code provides, inter alia, that: (1) Statutory criteria for arbitrators in interest arbitration is eliminated; (2), (3) the definition of essential services is amended to cover only those services "necessary or essential to prevent immediate and serious danger to the health, safety and welfare of the residents of British Columbia", and the concept of a "limited strike" is available in areas not deemed essential.

The Committee notes from the Government's report that the unions believe that they maintain sufficient bargaining power under these provisions to achieve acceptable collective agreements for their membership.

The Committee further notes that the new Code deletes section 137.9(7) of the Act, which provided for broad employer discretion in disciplinary sanctions for refusal to obey back-to-work orders, and deletes section 4.1, concerning a prohibition on secondary boycott clauses in contracts.

Given the recent legislative approval, the Committee will examine the Code in greater detail during the next session.

Alberta

In several previous comments as well as in the follow-up to the September 1985 study and information mission, the Committee had requested the Government to repeal provisions of the Universities Act, which, like the British Columbia law, limited the freedom of academic staff members to establish and join organizations of their own choosing. The Committee notes the Government's comments that it awaits a court decision regarding the legality under the Canadian Charter of Rights and Freedoms of a similar section of another law, the province's Colleges Act, and that the Government will be considering the results in that case before making any decision about changing the Universities Act. Noting that the Universities Act restricts academic staff members from establishing and joining organizations of their own choosing the Committee would recall the need for the Government to amend the Universities Act in order to bring it into conformity with Article 2 of the Convention. The Committee urges the Government to inform it of any measures taken in this respect.

In its previous comments, the Committee also noted that the Government was pursuing its examination of the Public Service Employee Relations Act and the Labour Relations Code of 1988 which contain restrictions on the right to strike through an overly-broad definition of essential services. The Committee takes note of the Government's comments that the changes in these provisions are still under review. The Committee, like the Committee on Freedom of Association (Case No. 1247, 241st Report), points out again that the definition of essential services should be limited to the strict sense of the term, namely those services the interruption of which would endanger the life, personal safety or health of the whole or part of the population. The Committee requests the Government to indicate any changes in these provisions to limit the restrictions on the right to strike.

Newfoundland

In its previous observation, the Committee requested an update on proposed amendments to the Public Service (Collective Bargaining) Act, (No. 59) which, by its definition of "employees" excludes many public employees from belonging to the union of their own choice and restricts the right to strike in the public service. The Committee recalls that in the Government's previous report it indicated that a new law was drafted on the recommendation of the Legislation Review Committee which would bring all employees under the Labour Relations Act, as well as create a joint employer-employee consultation process for designating essential services. That Bill was to be introduced in the Newfoundland House of Assembly in February 1991. The Committee notes the Government's report stating that this Bill has not yet been passed.

The Committee would again remind the Government that prohibitions on the right to strike should be confined to public servants acting in their capacity as agents of the public authority, or to essential services, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population. The Committeee considers that when the parties disagree on which services should be designated as essential, it would be preferable that an independent body could be convened to make this determination. Furthermore, any limitation on the right to strike in the public service or in essential services should be compensated by adequate, impartial and speedy conciliation and arbitration procedures in which the parties can take part at every stage and in which the awards should, in all cases, be binding on both parties. The Committee asks the Government to indicate in its next report the specific steps that have been taken to enact the legislation since its planned submission in February 1991 and to provide a copy of the text as soon as the Bill is adopted.

Central African Republic (ratification: 1960)

The Committee notes the information contained in the Government's report to the effect that the procedure for the reimbursement of the property of the former General Union of Central African Workers (UGTC) is under way. It requests the Government to keep it informed of the outcome of the settlement in its future reports.

The Committee also notes that, according to the Government's report, the single trade union system no longer exists in practice and that first-level trade unions and four central trade union organizations have been freely established.

Notwithstanding this change in practice, the Committee still considers that sections 1, 2 and 4 of Act No. 88/009, of 19 May 1988 (the requirement that a person should be employed in the occupation as a wage-earner in order to stand for trade union office, and the embodiment in legislation of the single trade union system) are not fully in conformity with the requirements of the Convention. In view of the recent emergence of trade union pluralism, it requests the Government to reconsider its position and to envisage the amendment of these sections in order to guarantee, in law as well as in practice, to all workers, without distinction whatsoever, the right to establish trade unions of their own choosing outside the single central trade union organization referred to in the Act. It also requests the Government to relax the excessive restrictions on the requirement of employment in the same occupation to stand for trade union office, in order to guarantee that first-level organizations can freely join federations and confederations, and that competent persons such as the permanent employees of trade unions or retired persons have the possibility of holding trade union office.

The Committee once again hopes that the Government will bring its legislation into conformity with the Convention and with national practice in the near future.

Chad (ratification: 1960)

The Committee notes the information supplied by the Government in its report and the conclusions of the Committee on Freedom of Association in Case No. 1592 which drew the Government's attention to the need to ensure that workers are entitled to form organizations of their own choosing without prior authorization and without being subject to a background investigation, in accordance with the requirements of the Convention.

In its previous comments, the Committee asked the Government to repeal specifically:

- Ordinance No. 30 of 26 November 1975 suspending all strike action throughout the country;
- Ordinance No. 001 of 8 January 1976 prohibiting public and similar employees from exercising the right to organize; and
- section 36(2) of the Labour Code prohibiting all political activity by trade unions.

The Government indicates in its report that the provisions in question have been repealed by section 29 of the National Charter of March 1991 and by section 10 of Ordinance No. 015/PR/1986 issuing the general conditions of service of the public service which grants public servants the right to strike within the provisions of the law. The Government none the less assures the Committee that it has submitted to the competent authority two draft ordinances to repeal the Ordinances of November 1975 and January 1976, but does not provide a copy of them. It also indicates that the draft Labour Code which was being prepared has not yet been adopted.

The Committee notes with regret that the Government has not yet adopted the amendments which it requested, and again urges the Government to provide with its next report the texts repealing the two above-mentioned Ordinances and the text of section 36 of the Labour Code.

Furthermore, the Committee considers, as does the Committee on Freedom of Association, that it is necessary to amend or repeal the provisions of Ordinance No. 27 INT/SUR of 28 July 1962 regulating associations which the Government relied on in the case of the complainant trade union in Case No. 1592. This Ordinance requires prior authorization to be obtained from the Ministry of the Interior in order to form an association subject to a prison sentence of from one month to one year (sections 5 and 6), allows the immediate administrative dissolution of an association (section 8) and empowers the administrative authorities to oversee the funds of associations (section 11).

The Committee asks the Government to indicate in its next report the measures that have been taken to ensure that these provisions, which are contrary to the requirements of the Convention, are not applicable to trade unions.

The Committee is also addressing a direct request to the Government concerning other matters.

Colombia (ratification: 1976)

The Committee takes note of the Government's report and the discussions that took place at the Conference Committee in 1992. The Committee noted from the Government's previous report that there had been some progress in the legislation but pointed out that there were still a number of provisions which were not in conformity with the Convention, namely:

- the requirement that, to form a trade union, two-thirds of the members must be Colombian (section 384 of the Labour Code);
- the supervision of the internal management and meetings of unions by public servants (section 486 and section 1 of Decree No. 672 of 1956);

- the presence of the authorities at general assemblies convened to vote upon the calling of a strike (new section 444, last paragraph, of the Code);
- the requirement of Colombian nationality for election to trade union office (paragraph 384 of the Code);
- the suspension for up to three years, with loss of trade union rights, of trade union officers who have been responsible for the dissolution of their unions (new section 380(3) of the Code);
- the requirement that persons must belong to the trade or occupation in order to be eligible for trade union office (sections 388(1)(c) and 432(2) of the Code, and section 422(1)(c) of the Code for federations);
- the prohibition on federations and confederations from calling a strike (section 417(1) of the Code);
- the prohibition of strikes not only in the essential services in the strict sense of the term, but also in a very wide range of public services which are not necessarily essential (new section 450(1)(a) of the Code and Decrees Nos. 414 and 437 of 1952; 1543 of 1955; 1593 of 1959; 1167 of 1963; 57 and 534 of 1967);
- various restrictions on the right to strike and the power of the Minister of Labour and the President to intervene in the dispute (sections 448(3) and (4), 450(1)(g), of the Code, and Decree No. 939 of 1966 as amended by Act No. 48 of 1968, and section 4 of Act No. 48 of 1968);
- the possibility of dismissing trade union officers who have intervened or participated in an unlawful strike (new section 450(2) of the Code).

The Committee in its previous observation expressed its concern at the serious situation of violence confronting Colombia, which in general makes it impossible for the normal living conditions of the population to be maintained and prevents the full exercise of the trade union activities.

The Committee notes the information supplied by the Government at the Conference Committee to the effect that:

- the amendment of section 384 (the requirement that two-thirds of the members must be Colombian for a trade union to be formed) can be discussed when the standing tripartite labour committee provided for in the National Constitution is set up;
- with regard to the requirement that persons must belong to the trade or occupation to be eligible for trade union office (sections 388(1)(c), 432(2) and 422(1)(c) of the Code), the Government states that it is open to dialogue with the trade union confederations and has requested the ILO's technical assistance in this respect;
- as regards the prohibition of strikes by federations and confederations, the Government states that a Bill is before Congress on this subject;
- the new Constitution of 1991 only lays down restrictions on the right to strike in essential public services, to be defined by the legislature in a future law, and there will be tripartite consultation on the subject.

With regard to the power of the Minister of Labour and the President of the Republic to intervene in disputes (sections 448(3) and (4) and 450(1)(g) of the Code) by convening a compulsory arbitration tribunal, the Committee emphasizes, as has the Committee on Freedom of Association on several occasions [see 270th, 275th and 284th Reports, Cases Nos. 1434, 1477 and 1631 (Colombia), paras. 256, 299 and 398 respectively], that the right to strike can only be subject to heavy restrictions (such as the imposition of compulsory arbitration in strikes) in essential services in the strict sense of the term, that is in those services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

As regards the possibility of dismissing trade union officers who have intervened or participated in an unlawful strike (section 450(2) of the Code), the Committee agrees with the Government's statement that the ILO supervisory bodies recognize the legitimacy of dismissal in cases of unlawful strikes. The Committee none the less points out that, when a strike is declared unlawful on the basis of a national standard which contravenes the principles of freedom of association, the dismissal of trade union officials, even if it is lawful, would be contrary to the Convention.

With regard to the provisions which allow the internal management of trade unions and trade union meetings to be supervised by public servants, the Committee notes from the information contained in the Government's report that the Political Constitution of 1991 repealed Decree No. 672 of 1956 (section 1).

With regard to the provision which authorizes suspension of trade union officers who have been responsible for the dissolution of a union (section 380(3)), the Committee notes that, according to the Government, this provision was amended by section 52 of Act No. 50 of 1990 under which the power to dissolve a trade union is conferred on the judicial authority and that the names of the persons responsible shall be stated.

As regards the first point, the Committee observes that although Decree No. 672 of 1956 has been repealed by the Constitution, section 486 of the Code is still in force. As regards the second point, the Committee observes that section 380(3) of Act No. 50 of 1990 to which the Government refers, corresponds to section 380(4) of the Code, and there has been no change in the wording. This provision suspends for up to three years the right of association of trade union leaders who have been found responsible by the judicial authority of dissolving a trade union.

The Committee once again asks the Government to indicate in its next report whether the provision contained in section 366(4)(c) of the Code (amended by section 46 of Act No. 50 of 1990), whereby an application for registration by a new works union may be rejected, applies if the trade union seeking registration has a greater number of members than the trade union that is already registered.

With reference to section 389 of the Code which provides that neither members representing the employer before his workers nor members of the top management of an enterprise can be members of the Executive of a trade union, the Committee once again requests the Government to provide information on the scope of this provision since, according to the federations, employers unilaterally determine who shall represent them and this has given rise to abuse.

The Committee hopes that in amending and drafting the above laws, account will be taken of the comments it has been making for several years. It asks the Government to continue to take steps within the framework of the standing tripartite committee and, should it so wish, with technical assistance from the ILO, to bring its legislation into closer conformity with the Convention, and to keep it informed of further developments.

The Committee is also addressing a direct request to the Government.

Congo (ratification: 1960)

The Committee recalls that for several years it has been noting that the legislation provided for a system of trade union monopoly (section 173 of the Labour Code of 1975) reinforced by a check-off system established by legislative means in favour of the Congolese Trade Union Confederation (CSC) (Decree No. 73/167 MJT of 18 May 1973), which restricts the right of workers to establish organizations of their own choosing outside the existing trade union confederation.

The Committee notes with satisfaction that section 25 of the Constitution of 15 March 1992 guarantees all citizens the right to establish and join a party, a trade union and associations. It also notes the information supplied by the Government in its report to the effect that, to facilitate the establishment of pluralist democracy, Decree No. 73/167 of 18 May 1973 establishing the check off system in favour of only the CSC has been repealed by Decree No. 911672 of 8 June 1991. The Government adds that together with trade union pluralism several trade union organizations have been established and are operating outside the existing trade union structure, and that section 173 of the Labour Code will be revised in line with the observations made by the Committee.

The Committee trusts that the new Labour Code which is currently being prepared will be in accordance with the requirements of the Convention. It requests the Government to keep it informed in its next report of any development in this respect and to supply the text of the draft Labour Code so that it can examine its conformity with the Convention.

The Committee is also addressing a request directly to the Government concnerning the right to organize of seafarers and the question of the check-off.

Costa Rica (ratification: 1960)

The Committee notes that the Government's report has not been received.

1. Solidarist associations

The Committee notes the conclusions of the Committee on Freedom of Association at its May and November 1990 and May 1991 meetings following its examination of a complaint presented by the

International Confederation of Free Trade Unions concerning the violation of trade union rights in the law and practice respecting solidarist associations and their impact on trade union organizations [see 272nd, 275th and 278th Reports of the Committee (Case No. 1483), paras. 389 to 444, 240 to 322 and 174 to 191, respectively], and the report of the direct contacts mission to Costa Rica in the context of this case.

According to the Act on Solidarist Associations and the above-mentioned reports, solidarist associations are associations of workers (including senior staff and personnel having the employer's confidence). They are often set up on the initiative of the employer, depend on a financial contribution from the employer and are financed in accordance with the principles of mutual benefit societies by both workers and employers for economic and social purposes of material welfare and of unity and cooperation between workers and employers.

The Committee expresses the firm hope, as does the Committee on Freedom of Association, that the Government will take the necessary legislative and other measures as a matter of urgency in order to:

- guarantee that solidarist associations do not become involved in trade union activities (including collective bargaining by means of direct settlements between an employer and a group of non-unionized workers);
- guarantee effective protection against all forms of anti-union discrimination (section 80 of the Labour Code in force allows dismissal without the grounds being specified if the corresponding compensation is paid, including in cases involving trade union leaders and workers carrying out trade union activities; moreover, the Labour Code provides for outdated fines for violations of the provisions on freedom of association - i.e. of between 300 and 1,000 colones; and
- guarantee the elimination of all inequalities of treatment between solidarist associations and trade unions (the Act on Solidarist Associations grants a series of advantages to solidarist associations over unions in certain areas: a lower minimum number of workers required, the possibility of engaging in profit-making activities, better access to compensation in cases of justified dismissal, the possibility of managing termination funds).

2. The right of trade union leaders to hold meetings on plantations

The Committee wishes to point out that on many occasions it has requested the adoption of a statutory provision guaranteeing the right of trade union leaders to hold meetings on plantations. In the absence of any information from the Government on this matter, the Committee once again requests the Government to take the necessary steps as soon as possible to ensure the adoption of a statutory provision of this kind.

3. Right to strike of trade unions of certain categories of workers

The Committee has pointed out that sections 369(a), (b), (d) and (e) of the Labour Code prohibits strikes in the public services, i.e. those in which the work is performed by persons in the employment of the State or a state institution, if the work in question carried out by the State or state institution is not of the same nature as work performed also by private enterprises carried on for profit; work performed by employees engaged in the sowing, cultivation, care or harvesting of agricultural or silvicultural products or in stock-raising and in the processing of produce in cases where it would deteriorate; and those declared by the State to fall into this category. The Committee has repeated in its comments that any prohibition or restriction of strikes should be confined to the following three cases: strikes in essential services in the strict sense of the term, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population; strikes by public servants acting in their capacity as agents of the public authority; and strikes during an acute national crisis. In these circumstances and in the absence of any information from the Government, the Committee stresses the need to amend section 369 of the Labour Code to bring it into conformity with the principles stated above, and asks the Government to take the necessary measures to that end.

4. Prohibition on foreigners from holding office or exercising authority in unions

In a previous direct request in which it addressed the application of the provision of Article 3 of the Convention establishing the free election of trade union leaders, the Committee noted the Government's statement concerning the prohibition on foreigners from holding office or exercising authority in unions (article 60(2) of the Constitution). The Committee considers that the legislation should be made more flexible to make it possible for organizations to elect their leaders freely and without interference and for foreign workers to have access to trade union functions, at least once a certain period of residence has been completed in the host country (see paragraph 160 of the 1983 General Survey on Freedom of Association and Collective Bargaining). The Committee asks the Government to take the necessary measures in this regard.

5. Right to organize of workers in small agricultural and stock-raising enterprises

In a previous direct request concerning the right to organize or workers in small agricultural and stock-raising enterprises (with up to five permanent employees), who are excluded from the scope of the Labour Code by virtue of section 14(c), the Committee considers that the right to organize and to bargain collectively should be guaranteed to these workers. It hopes that the legislation will be amended in this respect in the near future.

The Committee asks the Government to keep it informed of any developments in the matters referred to in the present observation and, in view of the fact that the Government has requested technical assistance from the International Labour Office, it expresses the hope that the legislation will be brought fully into conformity with the principles laid down in the Convention as soon as possible.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Côte d'Ivoire (ratification: 1960)

The Committee recalls that for several years its comments have concerned the need to amend section 183 of the Labour Code, which gives the President of the Republic excessive powers to submit an industrial relations dispute to compulsory arbitration in order to bring an end to a strike. The Committee notes that the Government supplies in its report the same information as that contained in a previous report that the procedure set out in section 183 is only put into effect by the President of the Republic in cases concerning a ministerial department and, in other cases, by the Minister of Labour which, according to the Government, restricts the concept of general interest, since the President's intervention is limited to ministerial departments.

In these circumstances, the Committee is bound to recall once again that, irrespective of the authority which refers a dispute to compulsory arbitration, whether it is the President of the Republic or the Minister of Labour, that authority should only be empowered to refer a dispute to arbitration and, by so doing, prohibit or restrict the exercise of strike action in three circumstances: in cases where the strike affects an essential service in the strict sense of the term, that is a service the interruption of which would endanger the life, personal safety or health of the whole or part of the population; in cases where the strike is called by public servants acting in their capacity as agents of the public authorities; or in the event of an acute national crisis.

The Committee also notes that the Government states in its report that no progress has been made concerning the amendment to section 183, which had been submitted to the Labour Commission as part of a general reform of the Labour Code, due to the fact that a new commission concerning the Labour Code was established on 26 March 1992 with the Minister of Labour as its president.

The Committee expresses once again the firm hope that the new commission will make every effort to ensure that section 183 of the Labour Code is adopted in the very near future in the version proposed earlier, which was in conformity with the principles of freedom of association, and it requests the Government to indicate any measure which has been taken in this respect in its next report.

Cuba (ratification: 1952)

The Committee takes note of the Government's report, the discussions at the Conference Committee in 1992 and the provisional conclusions of the Committee on Freedom of Association concerning Case No. 1628 [284th Report, approved by the Governing Body at its 254th Session (November 1992)].

(a) For many years the Committee has stressed the need to remove the reference to the Central Organization of Workers (CTC) from the legislation, in order to guarantee fully the right of workers and their organizations to establish organizations of their own choosing (Articles 2 and 5 of the Convention), particularly central organizations.

The Committee notes the observations made by a Government representative at the Conference Committee, which were confirmed by the Government in its report, to the effect that the right to establish and join organizations is established by law (section 13 of the Labour Code) and recognized in practice by all productive sectors, and the National Constitution guarantees the rights of assembly, demonstration and association to all workers (Article 54). The Committee none the less points out that the Committee on Freedom of Association, at its meeting of November 1992, examined allegations by the International Confederation of Free Trade Unions concerning the failure of the Ministry of Justice to reply to the General Union of Cuban Workers' (UGTC) request for registration and recognition of its legal personality; the above Committee asked the Government to send its observations on this matter without delay, taking into account Article 2 of the Convention, and stressed that the right of workers to establish organizations of their own choosing implies, in particular, the effective possibility of forming, in a climate of full security, organizations independent both of those which exist already and of any particular party [see 284th Report, Case No. 1628 (Cuba), paras. 1011 and 1029].

The Committee notes with interest the amendments to the National Constitution: the reference to the Central Organization of Workers has been removed from Article 7 which now makes the general statement that the socialist State of Cuba recognizes and stimulates the social and mass organizations which have risen from the historic process of the struggles of the people; and Article 99 which entitled the general secretary of the Central Organization of Workers to participate in the sessions of the Council of Ministers has been repealed. The Committee also notes from the Government's report that the amendments to the National Constitution have significant implications for a whole set of existing laws - including the Labour Code - which are to be reviewed and amended to bring them into line with the Constitution once the appropriate consultations have been held with the trade unions.

The Committee therefore expresses the firm hope that all the trade union legislation will be harmonized with the amended National Constitution and, in particular, that the Labour Code and other legal texts will be amended in the near future so as to omit any reference to a single central workers' organization. It also hopes, in view of the conclusions of the Committee on Freedom of Association, that full effect will be given in practice to the right of workers, should they so wish, to establish freely, in a climate of full security, trade union organizations independent both of those which exist already and of any policitical party, in accordance with Article 2 of the Convention. The Committee asks the Government to keep it informed of any progress made in these matters.

(b) In its previous observations, the Committee also referred to comments made by the International Confederation of Free Trade Unions concerning the elections of trade union leaders by the Communist Party and not by the workers. In reference to this point, a Government representative informed the Conference Committee in 1992 that when part of the management of the Central Organization of Workers was replaced recently, members from the working class were elected. In addition, according to the Government's report, any worker may be nominated and elected as a trade union leader as soon as he enters into a labour relationship.

While taking due note of this information, the Committee reminds the Government that although the Preamble to the Statutes of the CTC states that the trade union movement is not part of the state apparatus and that the CTC and the unions are not organizations of the Party, at the same time, the CTC and the unions openly and consciously recognize the leadership of the Party as being the vanguard and highest organization of the working class, endorse and follow the policy of the Party and act in accordance with the principles of democratic centralism.

The Committee recalls paragraph 5 of the resolution concerning the independence of the trade union movement, adopted by the International Labour Conference in 1952, which stipulates that: "When trade unions, in accordance with national law and practice of their respective countries and at the decision of their members decide to establish relations with a political party or to undertake constitutional political action as a means towards the advancement of their economic and social objectives, such political relations or actions should not be of such a nature as to compromise the continuance of the trade union movement or its social and economic functions irrespective of political changes in the country."

The Committee considers that a system in which there is a single party and a single central trade union organization and where the statutes of such an organization establish the objective of following the policy of the Party is likely to lead to excessive interference in trade union independence and the election of trade union leaders, is inconsistent with Article 3 of the Convention. In these circumstances, the Committee asks the Government to keep it informed of any developments in the relations between the Cuban Communist Party and the Central Organization of Workers.

Denmark (ratification: 1951)

With reference to its previous comments, the Committee notes with interest the information supplied by the Government stating that the 1987 legislation prohibiting strikes has expired and that all 1991 contracts are negotiated agreements.

The Committee also notes the Government's comments regarding article 10 of Act No. 408 of 1988, on the Danish International Ship's Register, an Act which, contrary to Articles 2, 3 and 10 of the Convention, inhibits non-resident workers who are employed aboard Danish ships from being represented in collective bargaining by organizations of their own choosing. The Committee notes the Government's statement that the issue falls primarily under Convention No. 98, and that the Government is preparing a complete reply for 1993 under the said Convention. The Committee asks the Government to keep it informed of any development in this regard.

Dominican Republic (ratification: 1956)

The Committee takes note of the Government's report and of the discussions that took place at the Conference Committee in 1991.

The Committee expresses its satisfaction at the cooperation between the International Labour Office and the Government in the preparation of the new Labour Code.

The Committee notes with satisfaction the provisions concerning freedom of association in the new Labour Code (29 May 1992), and those of the Civil Service and Administrative Careers Act (20 May 1991) which amend and repeal a number of former provisions on which the Committee had been commenting for several years.

The new Labour Code covers all workers in agricultural enterprises, agro-industries, farming and forestry (section 281), and employees of the State and autonomous official institutions of a commercial or industrial character or in the transport sector, and grants them the right to organize (Principle III); it confines limitations on the right to strike to essential services in the strict sense of the term, and provides for expeditious and impartial arbitration procedures (sections 403 and 404); abolishes the prohibition on political and sympathy strikes (section 406); repeals Act No. 5915 of 1962 and amends Act No. 2059 of 1949. It also repeals Act No. 56 of 1965 which prohibited all trade union propaganda or proselytizing in public institutions. The Civil Service and Administrative Careers Act establishes the right to organize of all public servants and employees in the central administration and in autonomous institutions which are not of a commercial or industrial nature (section 30).

Although several of its comments have been taken into account in the new Labour Code, the Committee is none the less bound to draw the Government's attention to the following:

- Under section 383(2), federations must obtain a two-thirds majority vote which must be conducted in assemblies of their membership in order to form confederations. In the view of the Committee, this majority is too high and is contrary to the principles of freedom of association.

Trade union rights in free trade zones

With reference to its previous comment, the Committee notes that, according to the Government, as regards trade union rights, workers in the free trade zone are subject to the same laws as other workers, since Principle IV of the Labour Code stipulates that labour legislation is territorial in nature. It also notes the reasons given by the Government to explain the low rate of unionization among workers in the free trade zones: (a) the great majority of these workers are women from rural areas who are unaccustomed to unions and organized labour; (b) the lack of adequate protection and guarantees for trade union activity in the former Code, which is remedied in the new Labour Code of May 1992 which establishes the protection of trade union privileges for union leaders and officials and for workers who participate in collective bargaining (sections 389 and 394).

In this connection, the Committee notes with satisfaction the inclusion of Title X in the new Labour Code, which concerns trade union privileges and contains provisions to guarantee protection of the common interest and autonomy in the exercise of trade union functions (sections 389 to 394), and that the Dominican Association of Free Trade Zones (ADOZONA) and the six trade union federations recently signed a pact for social peace and productivity in free zone enterprises.

The Government states that between 1990 and the date of the present report, the Secretariat of State for Labour has registered 54 enterprise-level unions in free trade zones and that since March 1991 no applications for registration by free trade zone unions have been refused. It adds, however, that some enterprises in the free zones still refuse to admit trade unions, that trade union privileges have been disregarded and that the Secretariat of State for Labour has referred these cases to the criminal courts of the Republic.

The Committee asks the Government to provide information in its next report on any progress made in this respect in the free zones and on the measures taken or envisaged to allow confederations to be formed without excessive restrictions.

The Committee is also addressing a direct request to the Government seeking information on the repeal of the administration dissolution of associations of public officials; the majority required to call a strike; the prohibition imposed on trade unions from receiving subsidies or assistance from political parties; and the right of association of certain categories of workers in the public sector, including employees of autonomous and municipal official institutions.

Ecuador (ratification: 1967)

The Committee notes the discussions that took place at the Conference Committee in 1992 and the Government's report. It also notes the conclusions and recommendations of the Committee on Freedom of Association concerning Case No. 1617 [284th Report, paras. 1004 to 1010].

In its previous comments the Committee noted that the new Act No. 133, amending the Labour Code (published on 21 November 1991 in the Official Gazette) introduces the following provisions which may raise problems in the application of the Convention:

- the increase from 15 to 30 of the minimum number of workers required for the establishment of trade union associations, including works councils (sections 53 and 55);
- the decision by the Ministry of Labour, when there is disagreement between the parties, on the minimum services to be provided in the event of a strike in the services considered as essential, even when the State is party to the dispute (new section 503).

With regard to the first point, the Government states that Article 8, paragraph 1, of the Convention stipulates that in exercising the right to organize workers must respect the law of the land, and that the Convention allows each member State to determine the minimum number of workers in accordance with its own circumstances. The Government considers that in view of the prevailing circumstances in the Ecuadorian economy and productive and social sectors, the minimum number of workers required to form trade unions had to be amended, because it was established in 1938 when industrial and labour development were at their very beginnings.

The Government also states that the dynamics of relation in the productive sector and labour law made it essential and urgent to adjust labour standards on the requisite minimum number of workers, as Ecuador is engaged in a process of subregional economic, customs and industrial integration.

With regard to the Government's reference to Article 8, paragraph 1, of the Convention, the Committee points out that account should also be taken of Article 8, paragraph 2, which states: "The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention".

Although the minimum number of 30 workers would be acceptable in the case sectoral trade unions, as it said in its previous comments, the Committee considers that the minimum number should be reduced in the case of works councils so as not to hinder the establishment of such bodies, particularly when it is taken into account that the country has a very large proportion of small enterprises and that the trade union structure is based on enterprise unions.

As to the Ministry of Labour's responsibility for the decision on minimum services in the event of a strike, when there is disagreement between the parties, the Committee notes that, according to the information contained in the Government's report, Ecuadorian legislation considers that it is a fundamental obligation of the Government to ensure that essential minimum services are provided in the event of strikes in institutions that provide services in the social or public interest.

The Committee also notes that in 1991 the effects of a serious cholera epidemic in Ecuador made the provision of hospital and health services imperative and that there were none the less both regional and national strikes among health workers which completely paralysed medical care, which resulted in loss of life and created a serious risk and a state of emergency for the people deprived of this essential service.

The Committee agrees with the Government's view that preserving the right to life and health of citizens is a fundamental obligation in any society and particularly in societies which are on the brink of poverty, and it has always acknowledged that strikes may be restricted or even prohibited in essential services whose interruption would endanger the life, personal safety or health of the whole or part of the population, such as hospital services.

However, the Committee considers that it would be preferable for the minimum services in public services which are not considered as essential in the strict sense of the term to be determined, where there is disagreement between the parties, by an independent body. The Committee asks the Government to provide information on the application in practice of this provision.

Furthermore, the Committee again notes with regret that the new legislation does not amend the following provisions which are incompatible with the requirements of the Convention, as the Committee has been pointing out for many years:

- the prohibition placed on public servants from setting up trade unions (section 10(g) of the Civil Service and Administrative Careers Act of 8 December 1971);
- the penalty of imprisonment laid down by Decree No. 105 of 7 June 1967 for the instigators of collective work stoppages and for those who participate in them;
- the requirement that members of the executive committees of works councils be Ecuadorian (section 455 of the Labour Code);
- the administrative dissolution of a works council when its membership drops below 25 per cent of the total number of workers (section 461);
- the prohibition placed on unions from taking part in religious or political activities (section 443(11)).

The Committee notes from the information supplied by the Government that, in accordance with the commitment made at the Conference Committee in June 1992, the Ministry of Labour requested the President of the National Congress in Communication No. 92081 of 21 July 1992 to initiate urgently the procedure for the adoption of the draft amendments to the Labour Code which were prepared by an ILO mission in December 1989, in order to eliminate the discrepancies between certain international labour Conventions ratified by the country. It also notes the reply from the Secretary-General of the National Congress to the effect that the procedure for the adoption of the draft amendments to the Labour Code requested by the Ministry would be initiated. The Committee asks the Government to keep it informed of progress in the adoption of these drafts by Parliament and to provide copies of these provisions once they have been adopted.

The Committee again urges the Government to take the necessary measures to bring law and practice into complete conformity with the Convention at an early date and asks it to provide detailed information in this respect in its next report.

The Committee is also addressing a direct request to the Government.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Egypt (ratification: 1957)

The Committee notes the information supplied by the Government in its report. While the Committee was in session, the legislative text on professional organizations of 17 February 1993 was received by the Office. The Committee proposes examining it at its next session.

It recalls that the divergencies between the national legislation and the Convention concern the following points:

- sections 7, 13, 14, 16, 17, 31, 41, 52 and 65 of Act No. 35 of 1976 on trade unions, as amended by Act No. 1 of 1981, which institutionalize a single trade union system;
- sections 41 and 62 of the same Act on the control exercised by the Confederation of Egyptian Trade Unions over the nomination and election procedures for trade union office and the financial management of trade unions;
- sections 93 to 106 of the Labour Code, as amended by Act No. 137 of 6 August 1981, on compulsory arbitration at the request of one party, which go beyond essential services in the strict sense of the term, that is those whose interruption would endanger the life, personal safety or health of the whole or part of the population;
- section 70(b) of Act No. 35 of 1976 on the powers of the Public Prosecutor to remove from office the executive committee of a trade union which has provoked work stoppages or absenteeism in a public service;
- section 4 of Act No. 95 of 1980 on the protection of values, under which a person may be banned for a period ranging from six months to five years from standing for election or being appointed to the chairmanship or membership of management committees of trade union organizations or federations.

The Committee takes due note of the information supplied by the Government in its report to the effect that it is currently embarking upon the revision of the national legislation. The Committee also notes that meetings have been organized for this purpose with senior ILO officials in the context of the examination of structural changes, the development of the public sector, the promotion of the private sector and the participation of the ILO in examining the possibility of unifying the labour legislation and bringing it into conformity with international labour Conventions and Recommendations.

The Government states that the Ministry of Manpower and Training has established working groups to re-examine ratified Conventions relating to the protection of workers with a view to ensuring their strict application and to avoid observations being made by the Committee concerning them.

The Committee expresses the firm hope that the above working groups, based on the comments which it has been making for many years, will endeavour to adopt the necessary provisions as soon as possible in order to guarantee to all workers the right to establish, if they so wish, trade union organizations outside the existing trade union structure and to recognize the right of workers' organizations to elect their representatives in full freedom and to administer the finances of their activities without interference by the public authorities, as well as to confine restrictions on the right to strike which go beyond the limitations which are compatible with the principles of freedom of association.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Ethiopia (ratification: 1963)

The Committee notes the Government's report as well as the discussion which took place at the Conference Committee in June 1992.

With reference to its previous comments, the Committee notes with satisfaction that Labour Proclamation No. 42/1993, which repeals previous labour legislation and which takes into account the Committee's previous observations, entered into force on 20 January 1993. This Labour Proclamation removes the imposition of a single trade union system established by previous legislation and recognizes the right of workers and employers to establish and join trade unions and employers' associations respectively in order to represent their members in collective bargaining. It also provides for the right to strike of workers to some extent. It does not exclude domestic workers from its scope of application.

However, the Committee is addressing a direct request to the Government concerning certain aspects of this Proclamation with regard to the application of the Convention.

Finland (ratification: 1950)

Referring to its previous comments relating to the right of unions to elect their representatives in full freedom, the Committee notes with interest the Government's introduction of a bill to abolish restrictions on citizenship and domicile in sections 44 and 48 of the Personnel Funds Act and section 6 of the Act on Personnel Representation in Company Administration. The Committee asks to be kept informed about the progress of these proposed changes.

Gabon (ratification: 1960)

The Committee notes the information supplied by the Government in its report, as well as by the Trade Union Confederation of Gabon (COSYGA) and the Confederation of Free Trade Unions of Gabon (CGSL).

The Committee recalls that the divergencies between the national legislation and the Convention concern the following points:

- the need to repeal or amend section 174 of the Labour Code, which obliges all workers' or employers' organizations to affiliate with the Trade Union Confederation of Gabon (COSYGA) or the

Employers' Confederation of Gabon (CPG), and section 173 of the Labour Code, which prohibits the establishment of more than one union in a given occupation or region, and to amend Act No. 13/80 of 12 June 1980, establishing a trade union solidarity tax deducted for the COSYGA, with a view to lifting legislative restrictions on the possibility of trade union pluralism;

- the need to amend sections 239, 240, 245 and 249 on compulsory arbitration, which impose excessive restrictions on the right to strike of workers' organizations in defence of economic, social and professional interests, since restrictions, or even provisions should only be imposed in respect of public servants acting in their capacity as agents of the public authority or in the essential services in the strict sense of the term.

The Committee notes with interest section 13 of the Constitution of 26 March 1991, which provides for the right to establish trade unions under the conditions set out by the law. It also takes due note of the assurances provided by the Government in its report that the draft Labour Code, which is before the National Assembly, has taken into account all of its observations, and particularly those respecting section 174 of the Labour Code, establishing the trade union monopoly, and sections 242 to 249, with a view to reconciling the points of view as regards the right to strike. The Government adds that since the national conference, trade union pluralism has been in effect in the country.

The Committee nevertheless notes that the by-laws of the COSYGA adopted by the States General and the Extraordinary Congress on 15 and 16 August 1990, which the Government attached to its report, still provide in their first clause that the COSYGA is a central organization of all trade unions which exist or come into existence throughout the territory, and that clause 6 provides that, in order to maintain unity of action, all enterprise trade unions, occupational trade unions and national federations shall affiliate with the COSYGA. It nevertheless notes with interest that the CGSL, the rival of the COSYGA, states that the civil court considered the constituent act of the CGSL to be legal, even though the CGSL had been denied legal personality.

The Committee trusts that the new Labour Code which is currently being prepared will be in conformity with the requirements of the Convention. It requests the Government to keep it informed in its next report of the measures taken to raise all the legal restrictions on the possibility of trade union pluralism, and to limit the restrictions on the right to strike in accordance with the principles of freedom of association. The Committee would remind the Government that the International Labour Office is at its disposal for any assistance that may be needed in formulating amendments which will give effect to the Convention.

The Committee is also addressing a request directly to the Government concerning the trade union solidarity tax.

Germany (ratification: 1957)

The Committee notes the information supplied by the Government in its report.

1. Access to the workplace for trade union officials who do not belong to an enterprise. In reply to the Committee's previous comments in relation to this right of access, the Government once again considers that there is no need to amend its legislation in order to guarantee the right of access by union representatives unconnected with the workplace.

The Committee recalls once again that Article 3 of the Convention states that workers' organizations have the right to organize their administration and activities and that the public authorities should refrain from any interference which would restrict this right. The Committee would refer in this respect to the point of view of the German Confederation of Trade Unions (DGB), described in detail in its observation of 1989. The DGB stated that the fact that in the Federal Republic of Germany there were no work unions and that trade unions were totally independent of individual enterprises meant that the interests of the workers had to be represented by trade union officials who did not belong to the enterprise in question. However, an order of the Federal Constitutional Court handed down in 1981, had the result of denying the right of access to the workplace for trade union officials who did not belong to an enterprise and the Government, as a result of this order, had not yet adapted its legislation to the requirements of the Convention. While acknowledging that this right of access should not affect unduly the running of the enterprise concerned, the Committee requests the Government to indicate in its next report the measures that have been taken to guarantee trade union officials, including those who do not belong to an enterprise, access to the workplace if they consider it necessary.

2. Requisitioning of civil servants (Beamte) to replace striking state employees and manual workers (Angestellte) in the public service. In reply to the Committee's previous comments on the requisitioning of civil servants, the Government states that the Federal Constitutional Court has not yet handed down its ruling on this matter and it prefers not to comment on the question until a ruling is issued.

With respect to the right to strike of public servants who do not act in a capacity as agents of the public authority, the Government states that the prohibition against striking which arises from the Basic Law applies to all civil servants, regardless of what tasks they perform. The legal position of civil servants cannot be construed differently according to the area of activity since the Constitution regards the professional civil service as a unity.

The Committee recalls once again that the principle whereby the right to strike may be limited or prohibited in the public service or in essential services would become meaningless if the legislation defines the public service or essential services too broadly. Accordingly, any prohibition of strikes should be confined to public servants acting in their capacity as agents of the public authority or to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. Therefore, the Committee would once again request the Government:

- to indicate in its next report the measures that have been taken to ensure that public servants who do not act in a capacity as agents of the public authority, are not denied the right to strike;
- to transmit to it the ruling of the Federal Constitutional Court when it has been handed down.

Ghana (ratification: 1967)

While noting that the Government's report has not been received, the Committee acknowledges with interest that under section 24(3) and (4) of the Constitution, which came into force on 7 January 1993, every worker has the right to form or join a trade union of his choice for the promotion and protection of his economic and social interests and that restrictions shall not be placed on the exercise of this right except those prescribed by law. The Committee recalls none the less that the discrepancies between the legislation and the Convention relate to:

1. The extensive powers of the Registrar to oppose the registration of a trade union following any comment or objection concerning an application for registration (sections 11(3) and 12(1) of the Trade Unions Ordinance, 1941) contrary to Article 2 of the Convention.

2. The powers of the Registrar, in the context of the procedure for granting recognition for collective bargaining purposes, to refuse to appoint a trade union for any class of employees if there is already a certificate in force naming a negotiating representative for that class of employees or any part of that class (section 3(4) of the Industrial Relations Act, No. 299 of 1965), contrary to Article 3.

3. The absence of provisions on the right to form and join federations and confederations and the right to join international organizations of workers and employers, contrary to Article 5.

The Committee expresses once again the hope that appropriate amendments will be made to the law in the near future and that the Government will, if necessary, make use of the technical assistance of the ILO so that appropriate measures be taken to eliminate as soon as possible the existing divergencies between the legislation and the Convention and, in particular, to make trade union pluralism possible. The Committee urges the Government to keep it informed of any developments in this regard and to provide a copy of the desired amendments as soon as they are adopted.

Greece (ratification: 1962)

The Committee notes the information contained in the Government's report, its observations dated 12 June 1991 concerning the comments made by the Greek General Confederation of Labour (GSEE) and the information supplied by the Government during the Conference in June 1991 on the application of Convention No. 98. It also notes the conclusions of the Committee on Freedom of Association in Cases Nos. 1584 and 1632 (283rd and 286th Reports of the Committee on Freedom of Association, approved by the Governing Body at its 253rd and 255th Sessions, May-June 1992 and March 1993).

1. Financial interference by the State in trade union affairs and collection of trade union dues. The Committee considers, in the same way as the Committee on Freedom of Association, that by adopting Act No. 1915 of 1990 on the protection of trade union rights and the rights of the population as a whole, and the financial autonomy of the trade union movement, the Government seems to be giving effect to its previous comments, since the Act brings an end to interference by the authorities in the financial administration of trade unions and to the system of trade union security which is not a product of provisions freely agreed between trade unions and employers. The Committee however requests the Government to supply information in its future reports on the effect given in practice to this Act, and in particular on the manner in which the transition takes place towards a system of self-financing for trade union organizations with the aim of achieving a satisfactory solution for the most representative organizations of workers and employers.

2. Right to strike in public services and minimum service to meet the vital needs of the population. The Committee notes, from the information contained in the Government's report, that section 4 of Act No. 1915 of 1990 provides that the employer is responsible for designating the minimum staff in the event of a strike in the public sector or in services which are of public utility. Observing that the services where strikes can be restricted go beyond the definition of essential services in the strict sense of the term namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population, it concludes that this provision has the effect of modifying the provisions contained in the Act of 1982 respecting minimum service, in the determination of which workers and employers participated jointly. In these circumstances, the Committee recalls that, in accordance with the principles of freedom of association, organizations of workers should be able, if they so wish, to participate in the determination of such minimum services. It therefore requests the Government, in the same way as the Committee on Freedom of Association, to take the necessary action to guarantee, both in law and in practice, that the workers' organizations are involved in defining the minimum services to be maintained in the event of a strike in services deemed as essential in Greek legislation, and to indicate in its next report the action taken in this regard.

Furthermore, the Committee requests the Government once again to specify whether recourse to arbitration by a tripartite commission presided by a judge (sections 15 and 21 of the Act of 1982) is still possible in case of a conflict between the employer and the workers.

3. Freedom of association of seafarers. The Committee notes with regret that the Government's report contains no reply to its previous comments and recalls that it has been raising for several

years the question of the freedom of association of seafarers who are excluded from Acts Nos. 1264/1982 and 1915/1990.

In its previous observations, the Committee noted that the comments made by the Greek Shipowners' Union (EEE) and the Pan-Hellenic Maritime Federation (PNO) on the Bill respecting the democratization of the seafarers' trade union movement were being examined by the authorities.

The Committee is bound once again to express the firm hope that legislation that is consistent with the Convention will be adopted in the near future to ensure that seafarers enjoy the rights laid down in the Convention.

Guatemala (ratification: 1952)

The Committee notes the Government's report, the information provided at the Conference Committee in June 1991, and the amendments to the Labour Code introduced by Decree No. 64-92 (Diario de Centroamérica, 2 December 1992).

The Committee notes with interest that the provisions of the Labour Code under which trade unions and their executives were prohibited from taking part in politics (section 207) and that trade unions that took part in matters concerning electoral or party politics must be dissolved (section 226(a)) have been removed from the Code by the above-mentioned amendments.

The Committee regrets to note that the amendments to sections 223(b) and 241(c) of the Labour Code do not take account of the Committee's comments and that sections 211(a) and (b), 222(f) and (m), 243(a) and 249, 255 and 257 of the Code have not yet been amended.

The Committee wishes to recall the following provisions of the legislation which are still at variance with the Convention:

- the strict supervision of trade union activities by the Government (section 211(a) and (b) of the Code);
- the requirement of Guatemalan nationality in order to form trade unions or to be eligible for trade union office (new paragraph "d" of section 220 and section 223(b));
- the requirement of a majority of two-thirds of the workers in the enterprise or production centre (section 241(c)) and of the members of a trade union (section 222(f) and (m)) for the calling of a strike;
- the prohibition of strikes or work stoppages by agricultural workers at harvest time, with a few exceptions (sections 243(a) and 249);
- the prohibition of strikes or work stoppages by workers in enterprises or services in which the Government considers that a suspension of their work would seriously affect the national economy (sections 243(d) and 249);
- the possibility of calling upon the national police to ensure the continuation of work in the event of an unlawful strike (section 255);
- the detention and trial of persons in breach of the provisions of Title VII of the Code (section 257);

- the sentence of one to five years' imprisonment for persons who carry out acts intended not only to cause sabotage and destruction (which do not come within the scope of the protection provided by the Convention), but also to paralyse or disturb the functioning of enterprises contributing to the development of the national economy, with a view to jeopardizing national production (section 390(2) of the Penal Code).

Furthermore, the Committee observes that new paragraph "d" of section 220 of the Code requires a sworn statement from members of the interim executive committee of a trade union to the effect that, amongst other things, they have no criminal record and are active workers in the enterprise or on their own account; in addition, section 223(b) establishes, amongst other requirements for membership of the executive committee, that candidates must be active workers at the time of election and that at least three of them must know how to read and write.

With regard to the requirement that members must have no criminal record, the Committee considers that a conviction on account of activities the nature of which is not such as to call into question the integrity of the person concerned, and is not such as to be prejudicial to the exercise of trade union functions, should not constitute grounds for disqualification from trade union office and that legislation providing for disqualification on the basis of any offence is incompatible with the principles of freedom of association (see the 1983 General Survey by the Committee of Experts, paragraph 164).

With regard to the requirement that members must be active workers in the enterprise, in the opinion of the Committee, provisions of this type may prevent qualified persons, such as pensioners or full-time union officers, from carrying out union duties. They may also deprive unions of the benefit of the experience of certain officers, particularly when they are unable to provide enough qualified persons from their own ranks (see the 1983 General Survey by the Committee of Experts, paragraph 158); especially if at least three of them are required to know how to read and write, as prescribed by the above-mentioned legislation.

The Committee therefore requests the Government to take the necessary measures to make the legislation more flexible by exempting a reasonable proportion of the officers of an organization from the obligation of being employed in the enterprise.

The Committee again hopes that the Government will pursue its efforts to bring all its legislation into line with the requirements of the Convention, thereby accommodating the comments that the Committee has been making for many years. The Committee asks the Government to provide information in its next report on the measures adopted to give full effect to the Convention.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Guyana (ratification: 1967)

The Committee takes note of the information contained in the Government's report.

The Committee recalls that its previous comments have addressed the following issues:

- the need to adopt a Trade Union Recognition Bill;
- the need to amend the Public Utility Undertakings and Public Health Services Arbitration Act (Cap. 54:01) which confers on the Minister broad powers to refer a dispute in the services listed in the schedule (which may be revised at the discretion of the Minister) to a tribunal for arbitration without having previously obtained the agreement of the two parties, and renders workers who take part in an illegal strike liable to a fine or two months' imprisonment (section 19).

The Committee notes from the Government's report that the Trade Union Recognition Bill was laid in Parliament and received its first reading in September 1991, but that the second reading was deferred as a result of objections raised by one of the parties to certain sections of the Bill. The Government indicates that further discussions are to be held with a view to clarifying those sections with which there is disagreement. The Committee further notes that the Government has taken note of its comments and that the amendments to the Act are still under consideration.

The Committee reiterates once again the hope that, as part of the present review of the legislation, the Act (Cap. 54:01) will be amended to bring the legislation in line with the Convention. It requests the Government to provide detailed information on developments in this respect in its next report.

Haiti (ratification: 1979)

The Committee recalls that it has been requesting the Government for several years to repeal or amend section 236 bis of the Penal Code, which requires that government approval be obtained to establish an association of more than 20 persons; section 34 of the Decree of 4 November 1983, which confers wide powers on the Government to supervise the trade unions; and sections 185, 190, 199, 200 and 206 of the Labour Code, which impose restrictions on strikes; as well as to give legal recognition to the right to organize of public servants, in order to bring its legislation into conformity with section 35(3) and (4) of the 1987 Constitution, which provides constitutional guarantees of the freedom of association of workers in the public and private sectors and recognizes their right to strike, and to bring it into conformity with the Convention.

The Committee notes that the 7 February 1991 Government gave a formal assurance in its report on the application of the Convention that section 236 bis of the Penal Code would be repealed and that tripartite meetings had been held to prepare a new Labour Code with a view to implementing the necessary reforms. The Committee is therefore bound once again to urge the Government to indicate in its next report the measures which have been taken to guarantee that the requirements of the Convention are respected.

Honduras (ratification: 1956)

The Committee regrets to note that the Government's report has not been received, but notes the debates that took place at the Conference committee in 1992.

The Committee recalls that the following provisions of the Labour Code are not consistent with the Convention:

- section 2(1) which excludes from the scope of the Code workers in certain agricultural or stock-raising enterprises;
- section 472 which prohibits more than one trade union in a single enterprise, institution or establishment;
- sections 510 and 541 which establish certain requirements for eligibility to trade union office, such as Honduran nationality (subsection (a)), and being engaged in the corresponding occupation (subsection (c));
- sections 495, 537, 555, 558 and 563 which impose restrictions on the right to strike;

The Committee notes the information supplied by the Government at the Conference committee in 1992 to the effect that the adoption of a new Labour Code or a substantial reform of the existing one will be the result of tripartite consultations, and that account will be taken of the comments of the Committee of Experts and that technical assistance from the ILO will be considered.

The Committee once again expresses the hope that the reform of the Labour Code will be adopted, in order to bring the legislation into line with the provisions of the Convention thereby eliminating the discrepancies that the Committee has been pointing out for many years.

The Committee asks the Government to inform it of any developments in this respect and reiterates that technical assistance may be requested from the ILO.

Hungary (ratification: 1957)

The Committee takes note of the comments made by the National Confederation of Hungarian Trade Unions (MSZOSZ) on Law No. 28 of 11 July 1991 respecting the protection of trade union property, equal opportunities of association for workers and equal opportunities of operation for their organizations, and Law No. 29 of 11 July 1991 respecting the voluntary nature of the payment of trade union membership dues, which, according to the MSZOSZ, impaired the right of trade unions to organize the management of their property freely, and on the provisions of the Labour Code of 1992 and of Act No. 33 of 1992 issuing the conditions of employment of public employees, which make a distinction between the most representative trade unions and the others.

The Committee asks the Government to respond to these comments and to submit any observations it may deem appropriate so that the Committee can address these specific questions at its next meeting.

[The Govermnment is asked to report in detail for the period ending 30 June 1993.]

Japan (ratification: 1965)

The Committee takes note of the information supplied by the Government in its report.

1. Denial of the right to organize of fire-fighting personnel. The Government indicates that in order to respond to the demand made by the trade union representatives concerned, the Government, in agreement with the Inter-Ministerial Conference on Public Employees' Problems, decided in 1990 that meetings would take place periodically between the Ministry of Home Affairs and the All-Japan Prefectural Municipal Workers' Union (JICHIRO), in order to find a solution to the issue of the right to organize of fire-fighting personnel.

The Government states that consultations between the Ministry of Home Affairs and JICHIRO have been held ten times since the first session was held in November 1990, namely, one session in 1990, six sessions in 1991 and three sessions in 1992. Although such consultations have enabled both sides to gain a better understanding of the standpoint of the other side, the Government feels that, given the lengthy history and the numerous persons involved in the issue of the right to organize of fire-fighting personnel, the consultations have not yet reached a stage which would allow the Government to submit a report on the solution to this problem. However, both the Ministry of Home Affairs and JICHIRO have agreed to continue consultations in order to find a solution.

The Committee trusts that these future consultations will take account of the comments that it has been making for several years, namely that the functions exercised by fire-fighters are not of such a nature as to warrant their exclusion from the right to organize under Article 9 of the Convention and that it would not be in conformity with the Convention to deny the right to organize to any category of worker other than the armed forces and the police. However, the right to organize does not necessarily imply the right to strike and the fire-fighting services must be considered to be an essential service in the strict sense of the term in which the right to strike may be prohibited.

The Committee requests the Government to supply information in its next report on further developments in the situation, and in particular on measures that have been taken following the consultations to resolve the issue.

2. Prohibition of the right to strike of public servants. The Committee regrets to note that the Government has not provided any information on the examination of its legislation which prohibits the right to strike of public servants. The Committee recalls that the prohibition on strikes should be confined to public servants acting in

their capacity as agents of the public authority or to essential services in the strict sense of the term, that is those whose interruption would endanger the life, personal safety or health of the whole or part of the population. As regards penal sanctions, the Committee points out once again that they should only be imposed where there are violations of strike prohibitions which are in conformity with the principles of freedom of association and that they should be proportional to the offences committed; penalties of imprisonment should not be imposed in the case of peaceful strikes. The Committee requests the Government to supply information in its next report on the measures taken following the examination of this matter by the Government.

Kuwait (ratification: 1961)

The Committee, while noting that the Government's report has not been received, takes note of the discussion which took place in the Conference Committee in 1992.

The Committee recalls that for several years it has been drawing attention to a number of discrepancies between the Labour Code (Act No. 38 of 1964) and the Convention, in particular:

(1) the prohibition on establishing more than one trade union for a given establishment or activity and the membership requirement of at least 100 workers in order to establish a trade union (section 71 of the Act) and ten employers to form an association (section 86);
  the requirement that trade unions may federate only if they represent the same occupation or industries producing similar goods or providing similar services (section 79);
  the prohibition on organizations and their federations from forming more than one general confederation (section 80);
  the system of trade union unity instituted by sections 71, 79 and 80 read together;

(2) the requirement that non-Kuwaiti workers must reside in Kuwait for five years before joining a trade union; the requirement that a certificate of good reputation and good conduct must be obtained in order to join a union; the denial of the right to vote and to be elected of trade unionists who are not of Kuwaiti nationality, except to elect a representative whose only right is to express their opinions to the trade union leaders (section 72);

(3) the prohibition on trade unions from engaging in any political or religious activity (section 73);

(4) the requirement that a certificate must be obtained from the Minister of the Interior stating that he has no objection to any of the founder members before a trade union may be established; and the requirement that at least 15 members must be Kuwaiti before a union may be established (section 74);

(5) the wide powers of supervision of the authorities over trade union books and records (section 76);

(6) the reversion of trade union assets to the Ministry of Social Affairs and Labour in the event of dissolution (section 77);

(7) the restriction on the free exercise of the right to strike (section 88 of the Labour Code).

In a previous observation, the Committee noted that a draft Labour Code repealing several provisions contrary to the Convention (sections 71, 72, 73, 74 and 79) was being prepared. The Committee notes from the Conference discussions that the Committee which had been set up in Kuwait in order to carry out a final study on drawing up a draft Labour Code, had finished studying the draft Code which was being submitted to the competent authority. According to a government representative, the Government would make every effort to submit sufficient information concerning the application of the Convention and to make the revision of the Labour Code of 1964 one of the priorities of the competent authority in order to reorganize the society of the country.

The Committee accordingly trusts that the Government will take the necessary measures to bring its legislation into full conformity with the Convention in the very near future and requests the Government to keep it informed of developments in this respect. The Committee further requests the Government to provide it with a copy of the draft Labour Code along with its next report.

Lesotho (ratification: 1966)

With reference to its previous comments, the Committee notes with satisfaction that the Labour Code which was drawn up with the technical assistance of the ILO entered into force on 12 November 1992. The Committee notes that section 241 of the Code repeals Act No. 34 of 1975 which provided that the banking sector was an essential service where the workers were deprived of the right to strike and that section 232(1) defines essential services as those services whose interruption would endanger the life, personal safety or health of all or any part of the population of Lesotho, thereby addressing the Committee's previous concerns with respect to the application of the Convention.

Liberia (ratification: 1962)

The Committee notes with regret that for the third year in succession the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes with regret that there has been no change in the legislative situation, which has been the subject of its comments for many years.
>
> The Committee recalls the need to amend or repeal Decree No. 12 of 30 June 1980 which prohibits strikes, section 4601-A of the Labour Practices Law which prohibits agricultural workers from joining industrial workers' organizations, and section 4102, subsections 10 and 11, of the Labour Practices Law which provides for the supervision of trade union elections by the Labour

Practices Review Board. The Committee observes that these provisions are still in force and that they are contrary to Articles 2, 3, 5 and 10 of the Convention.

Furthermore, the Committee recalls that the right to associate of workers in state enterprises and the public service is still not recognized in the national legislation, despite the Government's assurances in previous reports that the Civil Service Act was to be amended in order to give statutory effect to the right of the workers in this sector to establish and join organizations of their own choosing, in accordance with Article 2 of the Convention.

However, in its previous observation, the Committee noted from the information furnished by the Government to the Conference Committee in 1987 that, in practice, there are organizations of public servants and of rural workers, that strikes have occurred without sanctions being applied and that trade union elections are only supervised by the Ministry of labour at the invitation of the trade union organization in question.

Accordingly, the Committee again urges the Government to take the necessary measures to amend its legislation in respect of the above matters which have repeatedly been the subject of its comments.

[The Government is asked to provide full particulars at the 80th Session of the Conference.]

Madagascar (ratification: 1960)

1. Privileges granted to trade unions belonging to a revolutionary organization. With reference to its previous comments, the Committee notes with interest that Ordinance No. 78-006, of 1 May 1978, issuing the Charter of Socialist Undertakings, which only recognized for workers who were members of trade unions belonging to a revolutionary organization the right to be elected to works committees in the above undertakings, thereby applying a distinction between trade union organizations which is of a nature to jeopardize the rights of workers to join the trade union of their choosing, has been repealed by Ordinance No. 92/029, of 17 July 1992, which repeals the above Charter.

2. Right to organize of seafarers. The Committee reminds the Government that under the terms of the national legislation no provision explicitly recognizes the right to organize of these workers, even though certain rights relating to the right to organize are recognized by the legislation (the right to conclude collective agreements to determine their wages (section 3.5.03 of the Maritime Code, as amended in 1966), the procedure for the collective settlement of disputes and the right to strike following an opposition to an arbitration award (Act No. 70-002 of 23 June 1970 respecting individual and collective disputes in the merchant navy and its implementing Order No. 3012-DGTP/SSM of 1970)).

In these circumstances, the Committee once again requests the Government to include a provision in its legislation explicitly to guarantee seafarers the right to organize.

3. Requisitioning of persons. The Committee recalls that the conditions giving rise to the right to requisition persons set out in Act No. 69-15, of 15 December 1969, have too broad a scope to be compatible with the principles of freedom of association. Indeed, sections 20 and 21 of this Act empower the Minister to resort to this procedure when a situation of national necessity is proclaimed or in the event of a threat to a sector of economic life in order to safeguard the interests of the nation, whereas requisitioning to bring to an end a strike is only admissible in essential services in the strict sense of the term, that is those whose interruption would endanger the life, personal safety of health of the whole or part of the population, in the case of public servants acting in their capacity as agents of the public authority or in the event of a strike, the extent and duration of which are liable to give rise to an acute national crisis.

The Committee requests the Government to supply information on the cases in which it has requisitioned persons during the period covered by the report and to envisage amending this provision in order to confine its scope to the situations described above.

4. Finally, the Committee is addressing a direct request to the Government concerning the right to organize of public servants.

Mali (ratification: 1960)

The Committee notes the information supplied by the Government in its report, the comments made by the Mali National Union of Workers and the content of Act No. 92 of 23 September 1992 to issue the Labour Code.

The Committee observes with interest that section 229 of the Labour Code, as amended, provides, as the Committee suggested, for the Minister of Labour, should one or both parties dissent, to refer a dispute to compulsory arbitration if it involves essential services whose interruption could endanger life, personal safety or health. The Committee points out, however, that the same section continues to empower the Minister to order compulsory arbitration to end a strike in essential services whose interruption could impair the proper functioning of the national economy or a strike in a vital occupation. In this connection, the Committee recalls that it suggested that the Government amend its legislation to limit the Minister's powers to strikes which, by reason of their scope and duration, could lead to an accute national crisis.

The Committee also notes Decree No. 90-562/P-RM of 22 December 1990 establishing the list of jobs and services which are essential to the maintenance of minimum services in the event of a strike in the public services, communicated by the Mali National Union of Workers. The Committee observes that the above list allows compulsory maintenance of a service not only in essential services in the strict sense of the term and in the case of public servants acting as agents of the public authority, which is admissible in terms of the principles of freedom of association, but also in services which are not necessarily essential and in the case of public servants who do not necessarily act as agents of the public authority.

The Committee recalls that it would be preferable for workers' organizations to be able, should they so wish, to participate in defining minimum services, together with employers and the authorities in services which are not considered essential in the strict sense of the term.

The Committee requests the Government to provide information in its next report on the practical application of section 229 of the Code and the Decree of 22 December 1990, including any call-up orders issued, so that it can ascertain whether they are compatible with the Convention.

Malta (ratification: 1965)

Referring to its previous comments, the Committee regrets that the Government has taken no action to amend the Industrial Relations Act in its provisions for compulsory arbitration on the request of one of the parties. The Committee has commented on this violation of the principles of the Convention since the 1970s; since 1989, the Government has indicated that legislative action would be forthcoming to amend the Act. In the current report, the Government indicates only that discussions between the interested parties are in hand with the object of revising the provisions relating to industrial relations in Malta.

The Committee therefore reiterates once again that the Government should indicate in its next report the measures that have been taken to bring its legislation into conformity with the Convention by establishing a system in which recourse to binding arbitration involving the prohibition or interruption of strikes is confined to: (a) public servants acting in their capacity as agents of the public authority; (b) essential services, namely those whose interruption would endanger the life, personal safety or health of the whole or part of the population; (c) situations of acute national crisis; or (d) cases in which both parties request such arbitration.

The Committee also requests the Government to provide the text of section 45 of the Constitution of Malta as amended by Act XIX of 1991.

The Committee would remind the Government that the International Labour Office is at its disposal for any assistance that may be needed in formulating amendments which will give effect to the Convention.

Mauritania (ratification: 1961)

With reference to the comments that it has been making for several years on the need to amend the legislation to permit the possibility of trade union pluralism, repeal the provisions on the single trade union system set out in the legislation (sections 1, 2 and 22 of the Labour Code as amended by Act No. 70-030 of 23 January 1970) and limit the scope of the restrictions on the right to strike (imposed by sections 39, 40, 45 and 48 of the Code), in accordance with the principles of freedom of association, the Committee notes the assurances given by the Government during the direct contacts mission in May 1992 to the effect that the Government accepts without reservation the suggestions made to it and the draft texts proposed.

The Committee notes in this respect that, according to the Government's report, a national technical commission which has been established to review the draft Labour Code formulated with the assistance of the ILO in order to adapt it to the political, economic and social changes which have occurred in the country since the adoption of the new Constitution on 20 July 1991, will complete its work in the near future and that the final adoption of the draft text by Parliament is planned for April 1993. It also notes the information contained in the Government's report to the effect that the draft Labour Code explicitly recognizes trade union pluralism and freedom of association.

The Committee also notes that section 10 of the new Constitution of 20 July 1991 provides that all citizens are free to join any trade union organization of their choosing.

In view of the difficulties noted by the Committee on Freedom of Association in Cases Nos. 1088 and 1597, the Committee of Experts expresses the firm hope, in the same way as the Committee on Freedom of Association, that the Government will make every effort to ensure that in the near future trade union freedoms and rights are guaranteed in Mauritania, including the right of workers to establish organizations of their own choosing outside the existing trade union structure, if they so wish, and the right of trade union organizations to call strikes in defence of the occupational, economic and social interests of their members.

The Committee requests the Government to indicate in its next report any progress achieved in this respect and to supply a copy of the draft Labour Code.

[The Government is asked to supply full particulars to the Conference at its 80th Session and to report in detail for the period ending 30 June 1993.]

Mexico (ratification: 1950)

The Committee notes the Government's report, which once again includes comments from the Federation of Unions of Workers in the Service of the State (FSTSE) and from the executive board of the National Federation of Banking Unions (FENASIB), which emphasizes its previous comments and makes additional ones.

The Committee emphasizes that for several years it has been pointing out that the following provisions of the Federal Act on State Employees are not in conformity with the Convention:

- the prohibition of the coexistence of two or more unions in the same state body (sections 68, 71, 72 and 73 of the Federal Act on State Employees);
- the prohibition of a worker in the service of the State from leaving the union to which he belongs (section 69);
- the prohibition of the re-election of trade union officers (section 75);

- the prohibition of unions of public servants from joining trade union organizations of workers or peasants (section 79);
- the extension of the restrictions applicable to trade unions in general to the single Federation of Unions of Workers in the Service of the State (section 84).

The Committee also raised objections concerning section 23 of the Act issued under section 123(B)(XIII bis) of the Constitution, which institutionalizes in the law the trade union monopoly of the National Federation of Banking Unions.

The Committee notes the Government's statement in its report that at the present time it has no information that there is any prospect of amending the legal provisions criticized by the Committee in the near future. Nor has it come to its knowledge that the members of the various unions of office-workers, nor the Federation in which they are grouped together (the FSTSE), have criticized the legal provisions respecting public employees. The Government also reports that the Federal Act on State Employees of 1963 has been amended by various decrees, the last of which was adopted in 1991.

With regard to the prohibition on two or more unions in the same state body, the Government points out in its report that the existence of two or more unions in the same state body would probably not be beneficial in view of the natural scope and divergence of interests which could arise between organizations of public servants with similar interests and conditions of employment. The FSTSE also considers that the existence of more than one union would result in the dissipation of the trade union movement and a weakening of the capacity to dialogue and present the common interests of employees of the State.

The Committee wishes to emphasize that any system of trade union unity or monopoly imposed directly or indirectly by the law is at variance with the principle of the establishment of organizations of workers and of employers in full freedom as set out in Article 2 of the Convention. The Committee wishes to point out that, in the preparatory work for Convention No. 87, the International Labour Conference did not propose to impose trade union pluralism of a compulsory nature; it confined itself to guaranteeing the possibility to establish different organizations. There is therefore a fundamental difference between a situation in which a trade union monopoly is instituted or maintained by law and the factual situation in which the workers or their trade unions join together voluntarily in a single organization, without this being the result of legislative provisions adopted to this effect.

The Committee recalls that it is not necessarily incompatible with the Convention for a legislation to establish a distinction between the most representative trade union organization and other trade union organizations, provided that this distinction is limited to the recognition of certain rights to the most representative trade union organization (particularly with regard to representation for the purposes of collective bargaining or consultations by governments). However, this distinction should not have the effect of making it possible to prohibit the existence of other trade union organizatons which some of the workers concerned wish to join.

With regard to the prohibition placed upon the members of a trade union of workers in the service of the State (section 69), the Committee notes the Government's comments and those of the FSTSE, which reiterate their previous points of view.

In this respect, the Committee also emphasizes that the public authorities are bound to refrain from any legislative intervention which limits the right of workers to join the trade union organization which they consider to be appropriate (Articles 2 and 3 of the Convention), or the right to leave such an organization.

With reference to the prohibition of the re-election of trade union officers (section 75), the Committee note the comments made by the Government and the FSTSE, which refer to observations which they made previously. The Committee also notes the observations made by the FENASIB, which considers that there should not be restrictions preventing the official recognition of an organization, nor prohibiting the re-election of trade union officers, nor setting a limit on their periods of office. The FENASIB adds that, although such provisions may be convenient, they are not in accordance with the sense of the Convention and, therefore, may be interpreted as an intervention which restricts a right.

The Committee once again wishes to point out that, in accordance with Article 3 of the Convention, organizations of workers should be left free to determine in their by-laws or statutes the conditions respecting the election of their leaders. Any legal measure adopted by the public authority which prohibits or restricts re-election to trade union office is incompatible with the Convention.

With regard to the prohibition upon unions of public servants from joining trade union organizations or central organizations of workers or peasants (section 79), the Committee, having noted the reiterated statements by the Government and the FSTSE, wishes to point out once again that, for the Convention to be fully applied, organizations of workers in the public sector should have the right to join federations or confederations which also include private sector organizations. Any limitation in this respect which has as its source the public authority is incompatible with Article 5 of the Convention. If the organizations of workers in the service of the State found it inconvenient from a functional and legal point of view to join organizations or central organizations of workers or peasants, in the Committee's view, they are the ones who should determine any limitations in their statutes and by-laws, and not the public authority.

With regard to the existence and recognition by the Government of the single Federation of Unions of Workers in the Service of the State (section 78), which is governed by the provisions on trade unions contained in the Federal Act on State Employees (section 84), the Committee notes the comments made by the Government and the FSTSE, which reiterate their observations in previous reports, as well as the indications given by the FENASIB to the effect that, even recognizing that the legal provisions in question limit the ability of trade unions to join other federations or confederations, it is the express wish of the trade unions, granted in Congress, to recognize a single federation.

In this respect, the Committee considers that the will of the workers as regards the form in which they associate is reflected through the organizations which they establish and the by-laws which they adopt. If trade union unity at the level of federations is imposed by law, it is not possible to know the extent to which such unity is the expression of the will of the workers and their associations, or is derived from the provisions of section 78, which is contrary to Article 5 of the Convention.

With regard to section 23 of the Act issued under section 123(B)(XIIIbis) of the Constitution, which institutionalizes in the law the trade union monopoly of the National Federation of Banking Unions (FENASIB), the Committee notes the information provided by the Government to the effect that, as a result of the constitutional reforms envisaged in the Official Gazette of the Federation, dated 27 June and 18 July 1990, as from the time when they are no longer part of the system of public administration bodies, relations between multiple banking institutions and their employees will begin to be governed by section 123(A) of the Constitution and the Federal Labour Act and, as a consequence, their employees will be able to establish trade union organizations under the terms of the Federal Labour Act. With regard to the national credit societies, which will remain the property of the State, the Committee notes that, according to the information supplied by the Government, there is currently no proposal for changes in their legal status. The Committee also notes the comments of the FENASIB, in which that Federation recognizes that section 23 of the Act issued under section 123(B)(XIIIbis) of the Constitution is at variance with Article 2 of the Convention, although it does not claim that changes are necessary since the trade unions of bank employees have reiterated their free will to group together in a single organization, namely the FENASIB.

In this connection, the Committee notes with interest that employees in private banks, since they are covered by the Federal Labour Act, can establish the organizations that they wish, both in terms of first-level trade unions and at the level of federations and confederations. Nevertheless, the Committee notes that employees of public banks will continue to be governed by the Act issued under section 123(B)(XIIIbis) of the Constitution, section 23 of which gives them no possibility in law of trade union pluralism at the level of the federation.

The Committee once again expresses the hope that the Government will re-examine the legislation in the light of the principles of the Convention, and that it will supply information on any measure which has been adopted or is envisaged to harmonize the Federal Act on State Employees and the Act issued under section 123(B)(XIIIbis) of the Constitution with the requirements of the Convention.

Mongolia (ratification: 1969)

The Committee notes with satisfaction that article 16(10) of the new Constitution which entered into force on 12 February 1992, consecrates the right of citizens to associate on a voluntary basis in order to defend their interests and that the provision of the old

Constitution (article 82) respecting the leading and directing role of the Revolutionary Party of Mongolia in society does not appear in the Constitution of 1992.

Furthermore, the Committee notes with interest that according to the Government's report, a system of political pluralism has been established in Mongolia since March 1990 and an Act on political parties was adopted in May 1990 which confers equal rights and obligations on all the political parties in the country, and that the Trade Union Rights Act of 1 July 1991 has introduced the possibility of trade union pluralism and forbids the interference of political parties in trade union activities.

Myanmar (ratification: 1955)

With reference to its previous observations, the Committee takes note of the Government's report as well as the written and oral information provided to the Conference Committee in June 1992 and the detailed discussion which took place there.

During that discussion of the trade union monopoly established by virtue of sections 2 and 6(b) of Regulation No. 5 of 1976, the Government referred to the current drafting of new labour legislation which would reflect the changes occurring in the country, namely the redrafting of the Constitution as a basis for a multi-party democratic system and the country's commitment to a market-oriented economy. The Conference Committee urged the Government to introduce legislation as soon as possible which would lift the legislative restrictions contained in the 1976 Regulation on the freedom of workers to be members of unions of their own choosing. The Government's report also states that the new Constitution is to be drawn up on the basis of guidelines to be adopted at the representative National Convention in January 1993.

In view of these legislative activities in the country, the Committee asks the Government to ensure that the principles of freedom of association are enshrined in the new legislation so that workers can establish first-level unions, federations and confederations of their own choosing and choose an appropriate structure without previous authorization, in conformity with Articles 2, 5 and 6 of the Convention. It trusts that the Government's next report will be able to note progress in this direction.

Netherlands (ratification: 1950)

The Committee takes note of the information supplied by the Government in its report, the information given by a government representative at the Conference in 1991 and the comments of the Confederation of the Netherlands Trade Union Movement (FNV).

With reference to the comments it has been making for many years on the need to repeal sections 10 and 11 of the law known at the "WAGGS" Act so that employers and workers in the national insurance-funded and subsidized sectors would be permitted freely to conclude collective agreements in relation to their terms and conditions of employment, the Committee takes due note of the information contained in the Government's report to the effect that the Economic and Social Council of the Netherlands is in favour of repealing the above sections.

The Committee also notes that the Government has decided to follow the advice of the Economic and Social Council and that the Minister of Social Affairs and Employment submitted in September 1992 the Government's proposal to Parliament with a view to the repeal of the above provisions. The Committee expresses the firm hope that in its next report the Government will indicate that sections 10 and 11 of the "WAGGS" Act have indeed been repealed and asks it to provide a copy of the repealing legislation as soon as it has been adopted.

Nicaragua (ratification: 1967)

The Committee notes the Government's report.

The Committee notes with interest the draft text of the new Labour Code and notes that, taking into account the Committee's comments, it provides for a reduction in the minimum number of workers required to establish an enterprise trade union (25 workers at all levels); the elimination of affiliation to, membership of or being active in political parties or associations as a grounds for the dissolution of a trade union; and the elimination of the provision which permitted the authorities to submit a dispute to compulsory arbitration.

Nevertheless, the Committee notes that the above draft text does not change the limitation on the exercise of the right to strike which it criticized previously, particularly with regard to the possibility of restricting strikes in rural occupations when the produce may be damaged if it is not immediately available (section 239(a) of the draft text). Nor does the draft text guarantee through a specific provision, as the Committee has been requesting for many years, the right to associate of public servants, self-employed workers in the urban and rural sectors and persons working in family workshops. Furthermore, the Committee notes that although the number of workers in an enterprise who are needed to call a strike has been modified (60 per cent of the workers in an enterprise under the Labour Code, and a simple majority according to the draft text), this figure should be limited to a simple majority of voting members.

The Committee also reminds the Government that it has been requesting for many years an amendment to the obligation placed on trade union leaders to present to the labour authorities the registers and other documents of a trade union on application by any of the members of that union (section 36 of the Regulations on trade union associations).

In these conditions, the Committee therefore requests the Government to continue taking action to further harmonize its legislation with the Convention and it hopes that the new Labour Code will be adopted as soon as possible and that it will incorporate the comments of the Committee on matters which have not yet been taken into account in the draft text.

The Committee is also addressing a request directly to the Government.

Nigeria (ratification: 1960)

The Committee takes note of the Government's report and recalls that, for several years, the fundamental discrepancies between the national legislation and the Convention concerned the following points:

- the single trade union system established by law under which any registered trade union is compulsorily affiliated to the Nigerian Labour Congress, the only central organization, which is designated by name; the establishment of a single trade union for each category of workers in accordance with a pre-established list; too high a number of members for the establishment of a trade union;
- non-recognition of the right to organize of certain categories of workers (employees in the customs service, in mints, in the Central Bank of Nigeria and in the External Telecommunications Company);
- broad powers of the Registrar to supervize the accounts of trade unions at any time;
- the possibility of restricting the exercise of the right to strike through the imposition of compulsory arbitration beyond essential services in the strict sense of the term.

The Committee observes that in its report, the Government states that the Nigeria Labour Congress has, of its own volition, set up a number of committees to restructure its affiliate industrial unions. The Government indicates, however, that the subcommittee of the National Labour Advisory Council responsible for the review of the labour laws has not yet concluded its work. The Committee expresses the firm hope that the Government will take action on the observations that it has been making for several years with a view to establishing a situation where trade union pluralism would be possible if the workers so wish, recognizing the right to organize of certain categories of employees, restricting the broad powers of the Registrar and limiting restrictions on the right to strike to essential services in the strict sense of the term.

Norway (ratification: 1949)

With reference to its previous comments concerning the need to remove the restrictions imposed on the right to strike by legislative means in the oil industry through the imposition of compulsory arbitration, the Committee notes with interest from the Government's report that it would look favourably upon the maintenance of a minimum service defined by workers and employers in the event of a labour dispute in the oil sector, and that the Government has started to review possible modifications to the existing system along the lines suggested by the Committee. According to the Government, the Labour Law Council which is an advisory agency to the authorities in matters of labour legislation is now preparing a proposal for a new Labour

Disputes Act. This Council whose members include representatives of the authorities, the mediation institution and the major workers' and employers' organizations, is considering all aspects of the collective bargaining system.

The Committee welcomes these measures and requests the Government to provide further information on developments in this respect so that its legislation will be brought into conformity with the Convention.

Pakistan (ratification: 1951)

The Committee notes the Government's report and the discussion which took place in the Conference Committee in 1992. It also takes note of the communication from the Pakistan National Federation of Trade Unions (PNFTU) dated 8 July 1992 as well as the communications from the All Pakistan Federation of Trade Unions (APFTU) dated 8 July 1992, 20 September 1992 and 3 January 1993:

The Committee's previous observations referred to discrepancies between the national legislation and the Convention on the following points:

- ban on trade union membership and activities for employees of the Pakistan Television Corporation and the Pakistan Broadcasting Corporation;
- denial of the rights guaranteed by the Convention for workers in export processing zones (section 25 of the Export Processing Zones Authority Ordinance, 1980, and section 4 of the Export Processing Zone (Control of Employment) Rules, 1982);
- exclusion of public servants of Grade 16 and above from the scope of the Industrial Relations Ordinance, 1969 (section 2(viii) (special provision));
- restrictions on recourse to strikes (sections 32(2) and 33(1) of the Ordinance);
- prohibition on minority unions from representing their members in relation to individual grievances;
- comments from the PNFTU alleging the promotion of union activists as an anti-union tactic.
- denial of the right to form trade unions for employees in public and private sector hospitals.

1. The Government states that although attempts are being made at the highest level to restore trade union rights to employees of the Pakistan Television and Broadcasting Corporations, difficulties were being encountered in the interministerial consultations. The Committee trusts that trade union rights will be restored to the above employees very soon and requests the Government to send information on this matter in its next report.

2. As regards the granting of trade union rights in export processing zones, the Government indicates that these were set up to boost industrialization and to enable workers and employers to work together in an environment of industrial peace. Since the work in these zones is progressing satisfactorily and since there has been no complaint from either party, the Government does not consider it advisable to disturb the status quo. The Committee would recall that these restrictions are incompatible with Convention No. 87 which

should apply to these zones as it does to other parts of the country. Moreover, even if there has been no complaint from either parties, the Committee would point out that the parties must have the possibility of exercising their rights under the Convention if they so wish, without being unduly hampered by legal restrictions.

Furthermore, according to the communications of the PNFTU and the APFTU, not only is the Government maintaining the status quo in export processing zones but it has declared on several occasions that it would exclude the applicability of labour laws to workers in the Special Industrial Zones which had been set up recently by the Government in different parts of the country under its "Foreign Investors' Scheme". The Committee requests the Government to send its observations on the contents of these communications in its next report.

3. Regarding the exclusion of civil servants of Grade 16 and above from the scope of the Industrial Relations Ordinance, the Government had claimed previously that there were 25 associations of civil servants which could act in a wide range of ways for the defence of their members' interests. The Committee would request the Government to furnish information relating to the size and activities of these associations in its next report.

The Committee had also noted from section 28 of the Sindh Government Servants (Conduct) Rules that associations of public servants were subject to serious restrictions incompatible with Articles 2 and 3 of the Convention: membership confined to civil servants serving in one functional unit (see the 1983 General Survey on Freedom of Association and Collective Bargaining, paragraph 126); requirement that all office-bearers be members of that association (op. cit., para. 158); ban on engaging in political activities, limiting activities to matters of personal interest of their members, ban on involvement in the individual cases of their members, ban on issuing periodical publications or publishing representations on behalf of their members without government sanction, and the requirement of prior approval of the approving authority (the employer) of their by-laws (see op. cit., paras. 195, 68 and 152 respectively).

The Government states in its report that at present there is no bar on the formation of associations of different categories of employees. The Committee would request the Government to send a copy of the amending legislation on this point. It would point out, however, that this measure addresses only one of the above restrictions. The Committee therefore asks the Government to inform it of measures taken or envisaged to bring the legislation into conformity with the Convention on the other points mentioned above. It further requests the Government to indicate in its next report whether similar restrictions exist in other provinces.

4. With respect to the restrictions on recourse to strikes, the Government indicates that the Pakistan Essential Services (Maintenance) Act, 1952 is not applicable to the Post and Telegraph Services, Railways and Airways and Ports except for those employees who load and unload goods at the Port of Karachi. While noting this point, the Committee observes that section 33(1) of the Industrial Relations Ordinance of 1969 enables the Government to prohibit any

strike, before or after its commencement, where the dispute involves "public utility services" within the meaning of the Schedule to the Ordinance. While the Committee agrees that most of the services listed in the schedule accord with its definition of essential services, namely services whose interruption would endanger the life, personal safety or health of the whole or part of the population (op. cit., para. 214), it must repeat that it has consistently considered that oil production and distribution, the post and telegraph services, railways and airways (except for air traffic controllers), and ports (all of which appear in the Schedule) are not as such within this definition. It accordingly again asks the Government to amend the Schedule.

5. So far as the right of representation of minority unions is concerned, the Government reiterates that if a minority union is allowed to have a dialogue with the employers in the presence of the elected representatives of the workers, it would severely undermine the importance of the elected representatives (i.e. the bargaining agent). It adds that the workers themselves are against such a move. The Committee would point out that the right of minority unions to represent their own members in individual grievances does not imply an undermining of the importance of the bargaining agents, since the function of minority unions would be limited to representing their members in individual grievances. The Committee therefore once again requests the Government to take measures so as to enable minority unions to represent their members in these specific circumstances.

6. The Committee noted in its previous observation that the Committee on Freedom of Association, in Case No. 1534, examined allegations from the PNFTU and other union organizations identical to the comments made by the PNFTU in the context of the present Convention, namely that a number of foreign-owned companies in the banking and financial sector were giving false promotions to their employees so as to remove them from the category of "workman" in section 2 of the Industrial Relations Ordinance and place them in the "employer" category, thus denying their right to belong to the same union as workers. The Committee on Freedom of Association found that these staff movements were clearly designed to undermine the membership of workers' unions, some of which had been severely affected in practice and called on the Government to take measures to strengthen the application of the protective provisions in the Ordinance so as to prevent employers from weakening workers' unions through artificial promotions. The present Committee notes that the Government reiterates its previous explanations, namely that section 15(i) provides protection against anti-union acts and that, if these were in effect false promotions since the employees received higher wages but not the corresponding change of task to a supervisory role, the employees could use the unfair labour practice provisions of section 22(A)(8)(g) and eventually go to the labour courts for redress. Noting that the Government has not yet supplied the statistics on the "employers'" organizations which might be formed by the promoted workers, the Committee considers that the Government should strengthen the Ordinance as suggested above, and asks it to inform it of any measures taken or envisaged in this connection.

7. Regarding the denial of the right to form trade unions for employees in public and private sector hospitals, the Government states that these employees have been excluded from the Industrial Relations Ordinance in the greater interests of the patients and the ailing community, and that if these employees were given normal trade union rights they would go on strike at the smallest pretext. The Committee would stress that the right to organize does not necessarily imply the right to strike which can be restricted or prohibited in essential services such as hospitals. It therefore requests the Government to restore to these employees the right to form trade unions and to negotiate collectively their terms and conditions of employment.

The Committee notes with interest that contacts are taking place between the Government and the Office in view of providing technical assistance to the Government. The Committee trusts that this assistance will enable the Government to take the necessary measures to bring its legislation into full conformity with the Convention.

Panama (ratification: 1958)

The Committee notes the information supplied by the Government in its report and the discussions that took place during the Conference Committee in June 1992.

The Committee notes with interest that some progress has been achieved in the legislation with regard to the powers of the authorities over the administrative aspects of trade union organizations and the right to strike:

1. With regard to the authorities' wide powers of supervision over the records and accounts of trade unions (section 376(4) of the Labour Code), the Committee notes Decision No. D.M. 23/92 of 21 May 1992 in which the number of documents required is reduced and the effects of section 376(4) of the Code are limited. The Committee hopes that in the near future this provision of the Labour Code will also be amended.

2. With reference to the restrictions on the right to strike (Act No. 13 of 1990), the Committee notes that Act No. 2 under which collective bargaining is reinstated and other labour provisions adopted, was approved by the Legislative Assembly on 13 January 1993 and repeals section 452(4) of the Labour Code respecting compulsory arbitration in enterprises when the continuation of the strike could result in serious economic problems for the enterprise.

The Committee wishes nevertheless to remind the Government of the comments which it has been making for several years with regard to the following points:

- the exclusion of public servants from the scope of the Labour Code and consequently from the right to organize and bargain collectively (section 2(2) of the Labour Code);
- the requirement, under section 344 of the Code, of too high a number of members to establish an occupational organization;
- the requirement that 75 per cent of trade union members are Panamanian (section 347); and

- the automatic removal from office of a trade union officer in the event of his dismissal (section 359).

With regard to the exclusion of public servants from the scope of the Labour Code and consequently from the right to organize, the Committee notes the information supplied by the Government that it has formally submitted a Bill respecting administrative careers to the Legislative Assembly for examination and approval. In this connection, the Committee notes that Bill No. 1, establishing and regulating administrative careers, does not contain any provisions on the right to organize of public servants. It only refers to the right to join associations to promote and give some dignity to public servants (section 128(8)) of the Bill, but not to the right to organize of public servants to defend their occupational interests. The Committee requests the Government to take the necessary measures in this respect.

With regard to the requirement of too high a number of members to establish an occupational organization (section 344 of the Labour Code) and the requirement for 75 per cent of the union members to be of Panamanian nationality (section 347 of the Code), as well as the automatic removal from office of an enterprise-level trade union officer in the event of his dismissal (section 359 of the Code), the Committee notes that, according to the indications provided by the Government, possible reforms of these provisions would be dealt with in a tripartite manner within the framework of a concerted social process.

The Committee also notes that the final paragraph of section 64 of the Political Constitution, and section 369 of the Labour Code, require that the executive board of a trade union organization be composed exclusively of persons of Panamanian nationality.

In this context, the Committee is of the opinion that the legislation should be made more flexible in order to permit organizations to choose their leaders without hindrance and also to permit foreign workers to hold trade union office, at least after a reasonable period of residence in the host country (see paragraph 160 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

The Committee again expresses the strong hope that the necessary measures will be taken to harmonize the legislation more fully with the Convention and reminds the Government that the ILO is available for technical cooperation in this respect.

Paraguay (ratification: 1962)

The Committee notes with regret that the Government's report has not been received. However, it notes the information supplied by a Government representative to the Conference Committee in 1992, and the adoption of the new national Constitution of June 1992, containing provisions which might improve the application of the Convention.

The Committee recalls that its previous comments referred to the following points:

- the recognition of the right of public servants to associate only for cultural and social reasons, but not to defend their professional interests (Act No. 200, section 31);
- the prohibition from adopting collective resolutions against measures taken by the competent authorities (Act No. 200, section 36);
- the prohibition of strikes in public services which are not essential in the strict sense of the term (section 358(c) and section 360 of the Labour Code);
- the requirement of three-quarters of the members to call a strike (section 353 of the Labour Code);
- the submission of collective disputes to compulsory arbitration (section 284 of the Code of Labour Procedure), and the dismissal of workers who have ceased work during the procedure (section 291 of the Code of Labour Procedure); and
- the prohibition on trade unions from receiving subsidies or economic assistance from foreign or international organizations (section 285 of the Labour Code).

The Committee notes with interest that the new national Constitution, of June 1992, recognizes the right of association and to strike of workers in both the private and public sectors (sections 96 and 98).

The Committee also notes, from the information provided by the Government, that the preliminary draft of the Labour Code extends the right to organize to public servants and employees in the public sector, and that Act No. 200/70 is liable to disappear since a draft text to update the above Act will be submitted to the national Parliament since the new Constitution has been promulgated, in order to prevent contradictions with the provisions of the Constitution in this respect. With reference to its other comments, the Committee notes the indication given by the Government that sections 353 and 360 of the Labour Code (restrictions on the right to strike), section 285 of the Labour Code (the prohibition on trade unions from receiving external assistance) and section 284 of the Code of Labour Procedure (compulsory arbitration) have been eliminated from the preliminary draft of the Labour Code.

The Committee hopes that in the new Labour Code and in the draft text of the conditions of service of the public service, account will be taken of the comments that the Committee has been making for several years, as well as of the changes proposed by the ILO through its technical assistance and that, in this way, the law will be brought into conformity with the principles and provisions of the Convention. The Committee requests the Government to supply information in its next report on the measures taken to this effect.

[The Government is asked to provide full particulars at the 80th Session of the Conference.]

Philippines (ratification: 1953)

With reference to its previous observations, the Committee takes note of the Government's statement in the Conference Committee in June 1991 that, with the assistance of the ILO, efforts were under way to bring the existing national laws into conformity with international labour standards and the discussion which took place thereafter, as well as of the conclusions of the Committee on Freedom of Association in Cases Nos. 1570 and 1610 (approved by the Governing Body in May-June 1991 and May-June 1992, respectively).

For several years the Committee has been raising the following points:

Articles 2 and 5 of the Convention

- The requirement that at least 20 per cent of the workers in a bargaining unit are members of a union for the union to be registered (s.234(c) of the Labor Code).
- The requirement of too high a number of unions (10) to establish a federation or a central organization (s.237(a)).
- The prohibition of aliens - other than those with valid permits if the same rights are guaranteed to Filipino workers in the country of origin of the alien workers - from engaging in any trade union activity (s.269) under penalty of deportation (s.272(b)).

Article 3

- Compulsory arbitration when, in the opinion of the Secretary of Labor and Employment, a planned or current strike affects an industry indispensable to the national interest, which results in restrictions on the right to strike in non-essential services (s.263(g) and (i)).
- Penalties for participation in illegal strikes: the dismissal of trade union officers (s.264(a); penal liability to a maximum prison sentence of three years (s.272(a)) or imprisonment for the organizers or leaders of strikes and participants in pickets deemed to be for propaganda purposes against the Government (s.146 of the revised Penal Code).

Noting that information was given to the Committee on Freedom of Association on the passage through Congress of a new Civil Service Code which would grant government workers the right to strike in certain circumstances, in accordance with the Filipino Constitution (article XIII(3) which grants all workers the right to strike), and the most recent information from the Government to the effect that the ILO's technical assistance is being sought for reform of the national labour laws, the Committee trusts that its comments on the above five points will be taken into account with a view to bringing them into conformity with the Convention.

The Committee asks the Government to inform it in its next report of developments in the reform of the labour legislation.

Poland (ratification: 1957)

The Committee notes the Government's report and its reply to the comments of the NSZZ "Solidarnosc" on the application of the

Convention, which referred in particular to the restitution of the assets of the former Central Council of Trade Unions (CRZZ).

The Committee notes that the NSZZ "Solidarnosc" referred to the inadequacy of the provisions of the Act of 25 October 1990 on the restitution of property and assets expropriated from trade unions and social organizations as a result of the introduction of martial law on 13 December 1981, and of section 45 of the Trade Union Act of 23 May 1991 which provides that the inter-union organization and the national trade union representative for workers of the majority of enterprises shall determine before 30 September 1991, by agreement, the principles of utilization and distribution of the assets of the Central Council of Trade Unions and that, in the absence of an inter-union agreement, these principles are to be established by Order of the Council of Ministers. The NSZZ "Solidarnosc" considered that the implementation of these provisions was ineffective and that the All-Poland Trade Union Alliance (OPZZ) had engaged in obstructive conduct to prevent the return of the assets it had acquired following the re-establishment of trade union monopoly in 1982 and which belonged to the NSZZ "Solidarnosc", constituted in 1980, and to the CRZZ.

With regard to the implementation of the Act of 25 October 1990, the Government explains that, under this Act, a Social Revindication Committee supervised by the Administrative High Court was set up to institute legal proceedings concerning the restitution of the trade union assets. It adds that, owing to material difficulties (a lack of documentation and information, the number of applications for restitution) and legal difficulties (the Constitutional Tribunal found that certain provisions of the Act of 25 October 1990 were incompatible with the Constitution) the aforementioned Committee has fallen behind with its work.

With regard to the redistribution of the assets of the former Central Council of Trade Unions, which were transferred to the OPZZ in 1982, the Government indicates that the national inter-union organization and the national trade union representative for workers of the majority of enterprises did not reach an agreement as to the principles of utilization and distribution of the assets of the CRZZ in accordance with section 45 of the Trade Union Act of 23 May 1991. Although, as a result, the Council of Ministers became authorized under section 45 to issue an Order establishing such principles, the Government preferred such decisions to be based on an agreement between the unions concerned. Accordingly, since February 1992 meetings of representatives of national trade unions have taken place at the Ministry of Labour. However, joint activities have been interrupted due to difficulties in determining membership of various trade unions, which is necessary for deciding on the proportions of the assets to be distributed. The Government adds that, in any event, the Ministry will endeavour to ensure that a draft of the Order provided for in section 45 of the Trade Union Act of 23 May 1991 is prepared within a reasonable period. The Government indicates in conclusion that the legal regulations were prepared with the participation of the NSZZ "Solidarnosc" and that excessive demands by one organization could lead to justified criticism on the part of the other trade unions concerned.

The Committee takes note of this information. It considers that it would be desirable for the Government and all the trade union organizations concerned to pursue efforts to find a solution, at the earliest possible date, to settle the distribution of the assets referred to in the Act of 25 October 1990 and section 45 of the Trade Union Act of 23 May 1990 in such a way as to ensure that all the trade unions, on an equal footing, are able effectively to exercise their activities in full freedom. It therefore asks the Government to provide information on any progress made in this respect in its future reports.

The question of sanctions against violations of trade union rights will be dealt with in the context of the application of Convention No. 98.

Portugal (ratification: 1977)

The Committee notes the Government's report, the attached documentation and the comments of the Confederation of Portuguese Business.

The Committee recalls that for many years its comments have referred to the need to bring into conformity with national practice and the Convention the following provisions of national legislation (which require too high a number of workers and employers to establish a representative organization): section 8(2) of Legislative Decree No. 215/B/75, which requires 10 per cent or 2,000 of the workers concerned and section 7(2) of Legislative Decree No. 215/C/75 which requires one-quarter of the employers concerned to establish a representative organization; section 8(3) of Legislative Decree No. 215/B/75 which requires one-third of the trade unions of a region or category and section 7(3) of Legislative Decree No. 215/C/75 which requires a minimum of 30 per cent of employers' associations to establish a group or a federation. The Committee notes the Government's indication in its report that the above provisions have not yet been amended since, according to the Attorney-General of the Republic, they are not applied in practice.

The Committee therefore considers that the provisions in question, which establish too high a number of members for the establishment of organizations of workers and employers, should be amended to bring the legislation into conformity with the Convention and it once again requests the Government to supply copies in future reports of any text which improves the situation in this respect.

The Committee is also sending a direct request to the Government.

Rwanda (ratification: 1988)

Articles 2 and 3 of the Convention. With refence to its previous comments, the Committee notes with satisfaction the indications supplied by the Government in its report and by the Central Trade Union Organization of Rwanda (CESTRA) to the effect that political and trade union pluralism is now in force, that the independence of the trade union movement is consecrated by the by-laws of CESTRA and that the right to strike has been extended to employees of the public services under the new Constitution of 10 June 1991.

The Committee notes that section 32 of the new Constitution does not reproduce the provisions of section 32 of the 1978 Constitution, which provided that the right to strike was not recognized for employees of public services.

The Committee, however, requests the Government to indicate in its next report the measures which have been taken or are envisaged to amend section 26 of the Legislative Decree of 19 March 1974 to issue the general conditions of service of employees of the State which, under its present wording, continues to forbid state employees to take part in strikes or in activities aimed at causing a strike in the state services, with a view to limiting the restrictions on the right to strike to those which accord with the principles of freedom of association.

The Committee also requests the Government to indicate the measures which have been taken or are envisaged to amend section 8 of the Labour Code which prohibits occupational organizations of employees to elect trade union officers who are not of Rwandan nationality, in order to permit foreign workers to hold trade union office after a reasonable period of residence in the country (see paragraph 160 of the 1983 General Survey on Freedom of Association and Collective Bargaining).

The Committee would moreover remind the Government that the International Labour Office is at its disposal for any assistance that may be needed in formulating amendments which will give effect to the Convention.

Senegal (ratification: 1960)

In its previous comments, the Committee emphasized the need to amend the national legislation in order to:

- guarantee that trade union organizations are not subject to dissolution by administrative means (Act No. 65-40 of 22 May 1965);
- permit foreign workers to hold trade union office (section 7 of the Labour Code);
- limit the powers of the authorities to impose compulsory arbitration to bring an end to a strike (sections 238-245 of the Labour Code) to essential services in the strict sense of the term, i.e. services whose interruption by reason of a strike would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis.

The Committee notes with interest the contents of a Bill adopted by the National Advisory Labour Council to exclude trade union organizations from the scope of Act No. 65-40 of 22 May 1965 concerning seditious associations.

It also notes the assurances given by the Government in its report to the effect that the draft Labour Code envisages greater flexibility in national legislation in order to permit foreign workers to hold trade union office after a period of residence of five years, and to amend the provisions relating to the right to strike in order to bring them into conformity with the Convention.

The Committee expresses once again the firm hope that the next report will contain information on any progress achieved in these fields. It would moreover remind the Government that the International Labour Office is at its disposal for any assistance that may be needed in formulating amendments which will give effect to the Convention.

The Committee is addressing a request directly to the Government on another point.

Seychelles (ratification: 1978)

The Committee notes with regret that for the fourth year in succession the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee takes note of the statutes of the National Workers' Union. It observes that no new information in addition to the general statements that were made in the first report (1979) submitted since the accession of the country to independence has been supplied on the application of the Convention.
>
> The Committee considers that it would be useful to recall the obligation on all States Members under article 22 of the Constitution of the ILO to transmit detailed reports on the effect given to ratified Conventions and to use as a basis the report forms adopted for the purpose by the Governing Body.
>
> With reference to its previous comments, the Committee would point out that, after the voluntary dissolution of all trade unions, the "National Workers' Union", representing all categories of workers, was set up in 1979. Under the constitution of the "Seychelles People's Progressive Front", promulgated as a schedule to the national Constitution in 1979, the Union functions under the direction of the Front (section 4); for example, the consent of the Front is necessary for every decision, it must also approve the expenditure of the Union, and it receives 25 per cent of the total amount of union dues (section 12 of the constitution of the Front). The Committee has noted that the law in force provides for the existence of only one trade union organization, mentioned by name and placed under the direction of a political party, as is confirmed by the comments of the National Workers' Union, and thus establishes a system of trade union monopoly, which is contrary to the Convention.
>
> The Committee recalls that it has already pointed out in the General Survey on Freedom of Association and Collective Bargaining, which it submitted to the 69th (1983) Session of the International Labour Conference, particularly in paragraphs 132 to 138, that trade union unity imposed directly or indirectly by law is in conflict with express standards of the Convention (Article 2) and that trade unions should have the right to organize their activities and to formulate their programmes in

full freedom, and also to draw up their constitutions and elect their representatives in full freedom. The Committee feels bound to emphasise, in reply to the statement of the Government that the socialist development of the country will be carried out in accordance with the doctrine of the party, which advocates the support of a single national trade union organization, that, even in a situation where, at some point in the history of a nation, all workers have preferred to unify the trade union movement, they should, however, be able to safeguard their freedom to set up, should they so wish in the future, unions outside the established trade union structure.

Lastly, the Committee considers it useful to recall that the resolution on the Independence of the Trade Union Movement (adopted by the International Labour Conference at its 35th Session, 1952) stresses, in particular, that governments should not seek to transform the trade union movement into a political instrument which they could use to achieve their political aims.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Spain (ratification: 1977)

The Committee notes the Government's report and the comments of the Trade Union Confederation of Workers' Commissions (CC.OO.) and the General Union of Workers (UGT).

The Committee recalls that on many occasions it has pointed out the need for occupational organizations to be able to participate in the determination of the minimum service to be maintained in the event of a strike.

In this context, the Committee notes that the CC.OO. and the UGT criticize in their comments the contents of a Bill respecting strikes which has been submitted to Parliament. The Committee also notes that according to the Government a new basic text respecting strikes and collective disputes has been sent to Parliament with the agreement of the CC.OO. and UGT. The Committee also notes the Government's indications that in future regulations it is envisaged that responsibility for determining those who are to provide minimum essential services will be shared by the employers and the trade unions, or the representatives of the workers who have called the strike.

The Committee expresses the firm hope that the future basic law respecting strikes and collective disputes will fully respect the principles of freedom of association in respect of strikes and, in particular, minimum services. The Committee requests the Government to supply the above text once it has been adopted.

Swaziland (ratification: 1978)

The Committee notes the Government's report. With reference to its previous comments, and in particular its detailed observation of 1990, the Committee recalls that the discrepancies between the legislation and the Convention related to the following points under the 1980 Industrial Relations Act:

Article 2 of the Convention

- non-recognition of the right of association of prison staff (section 83(c));
- obligation upon workers to organize within the context of the industry in which they exercise their activity (section 2(1) and (2));
- power of the Labour Commissioner to refuse to register a trade union if he considers that the interests of the workers are fully or substantially represented by a trade union that has already been registered (section 23), even though, by virtue of section 24(1)(d) an appeal may be made against such a refusal before the Labour Tribunal;
- obligation for an occupational organization or federation to obtain authorization before affiliating with any international organization (section 34(1)).

Article 3 of the Convention

- prohibition on federations from carrying out political activities and limitation of their activities to providing advice and services (section 33);
- prohibition of the right to strike in certain sectors or services, including, in particular, the postal, radio and teaching sectors (section 65(6));
- power of the Minister to refer any dispute to compulsory arbitration if he considers that a current or pending strike constitutes a threat to the national interest (section 63(1)).

The Committee notes the Government's statement that following technical assistance from the ILO, draft amendments to the Industrial Relations Act have been submitted to the Labour Advisory Board for perusal and comments. The Government has undertaken to take into consideration previous observations made by the Committee when discussing the final draft.

The Committee requests the Government to indicate any progress in ensuring full compliance of national legislation and practice with the Convention in its next report.

The Committee also takes note of the communication of the World Confederation of Organizations of the Teaching Profession (WCOTP) dated 15 December 1992 which, on behalf of its affiliate, the Swaziland National Association of Teachers (SNAT), asks the ILO to intervene with the Swazi authorities in order to obtain the repeal of the provision in the Industrial Relations Act of 1980 which classifies teaching as an essential service. The WCOTP adds that the supervisory bodies dealing with freedom of association in the ILO have confirmed that the activities of teachers could not be included in those activities which the ILO considers to be essential services.

The Committee requests the Government to communicate in its next report any comments that it may wish to make on the communication of the WCOTP.

The Committee is also addressing a direct request to the Government on other points.

Syrian Arab Republic (ratification: 1960)

The Committee notes the information contained in the Government's report and the information provided to the Conference at its 79th Session, as well as Decision No. 29 taken by the 22nd Congress of the General Federation of Workers' Union which affirms that the Congress is attached to national trade union unity. The Committee notes with interest that a draft legislative Decree to amend the provisions of Legislative Decree No. 84 of 1968 on trade unions, in order to bring it into conformity with the Convention, has been prepared and was submitted to the Council of Ministers on 28 May 1992. This draft text includes the following changes:

(1) each trade union shall be governed by its own by-laws without any requirement that they correspond to the model established by the General Federation of Workers' Unions (section 22(a));
(2) non-Arab foreign workers have the right to freely join a trade union in their occupation, since the condition of reciprocity has been repealed and the residence requirements abolished by Legislative Decree No. 30 of 1982 (section 25);
(3) the resources of occupational federations shall be constituted through the voluntary participation of trade unions (section 56);
(4) the repeal of section 32, which required the prior agreement of the General Federation and the approval of the Ministry for a union to be able to accept donations and inheritances or give up a part of its assets;
(5) the repeal of section 35, which provided for the Ministry to exercise financial control over all levels of trade union organization;
(6) the repeal of section 36, paragraphs 2, 3, 4 and 5, which makes it compulsory for trade unions to allocate a percentage of their actual resources to higher trade union organizations;
(7) the repeal of section 44(b)(4), which makes it compulsory for a trade union officer to have actually exercised the occupation for a minimum period of six months;
(8) the repeal of section 49(c), which gives the committee of the General Federation the right to dismiss the officers of any trade union organization under certain conditions; and
(9) section 38bis is added to the text of Legislative Decree No. 84, as amended, and provides that the assets of workers' trade union organizations, the services that they provide and their other operations and property are exempt from taxation of all types.

The Committee nevertheless notes that there are still divergencies between the national legislation and the Convention on the following points:

- sections 3, 4, 5 and 7 of Legislative Decree No. 84 of 1968, which organizes the structure of trade unions on a single union basis;
- section 2 of Legislative Decree No. 250 of 1969 regarding craftsmen's associations and sections 26 to 31 of Act No. 21 of 1974 regarding peasants' cooperative associations, which impose a single trade union system;
- sections 6 and 12 of Legislative Decree No. 250 of 1969 restricting the free administration and independence of management of trade unions; and
- section 160 of the Agricultural Labour Code of 1958 prohibiting strikes in the agricultural sector.

The Committee regrets that measures have not been taken to amend the provisions in the national legislation which organize the single trade union system. It recalls that, under Article 2 of the Convention, workers, without distinction whatsoever, and without previous authorization shall have the right to establish and join organizations of their own choosing. It also recalls that this Article is not intended as an expression of support either for the idea of trade union unity or for that of trade union pluralism; pluralism, however, should remain possible in all cases.

Since a government representative stated to the Conference Committee that there is in practice trade union pluralism in his country, the Committee requests the Government to bring its legislation into conformity with practice and the Convention by eliminating from its legislation the many references to the single central trade union organization designated in law as the General Federation of Workers' Unions (FGST).

With regard to Legislative Decree No. 250 of 1969 regarding craftsmen's associations, the Committee considers that the Government should take measures to amend the provisions which conflict with the Convention before requesting, as suggested by the government representative, craftsmen's associations to amend their by-laws.

The Committee also notes that, according to the government representative, the draft amendment to the Act respecting peasants' associations includes a provision to repeal section 160 which makes it unlawful for agricultural employers and tenant farmers to suspend agricultural work on their land and for agricultural workers to go on strike.

The Committee once again emphasizes that it is most important that legislation should not deprive trade union organizations of the right to strike, as this is one of the essential means by which they can promote and defend the occupational interests of their members.

The Committee requests the Government to indicate in its next report the date of coming into force of the draft text to amend the provisions of Legislative Decree No. 84 of 1968 and of the draft amendment to the Act regarding peasants' cooperative associations. It also requests the Government to indicate the other measures which have been taken to bring the whole of its legislation into conformity with the Convention.

Togo (ratification: 1960)

With reference to its previous comments, the Committee takes note of the Government's report indicating that the repeal of Ordinance No. 77-5 of 4 March 1977, which provided for the compulsory deduction of trade union dues for the National Confederation of Workers of Togo (CNTT), resulted in the repeal of Decree No. 77-66 of 14 March 1977 fixing the amount of trade union dues.

It therefore requests the Government to confirm, in its next report, that section 4(3) of the Labour Code which stipulates that trade union dues may be deducted from the salaries of workers following their written consent, now governs the regime of trade union dues.

Trinidad and Tobago (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> 1. The need to amend provisions that afford a privileged position to registered associations, without providing objective and pre-established criteria for determining the most representative association (sections 24(3) of the Civil Service Act, 28 of the Fire Service Act and 26 of the Prison Service Act).
>
> 2. The need to amend section 59(4)(a) of the Industrial Relations Act, as amended in 1978, so as to enable a simple majority of the voters in a bargaining unit (excluding those workers not taking part in the vote) to call a strike.
>
> 3. The need to amend sections 61 and 65 of the same Act to ensure that any resort to the courts by the Ministry of Labour, or by one party only, to end a strike is limited to cases of strikes in essential services in the strict sense of the term, that is to say, those in which the strike would endanger the life, personal safety or health of the whole or part of the population, or in cases of acute national crisis.
>
> In its previous report, the Government had indicated that the high-level review committee that it had appointed to undertake a global review of all the Service Acts and regulations had accomplished a considerable amount of work. In particular, the Fire Service (Amendment) Bill, 1990 and the Prison Service (Amendment) Bill, 1990, both of which amend the relevant Service Acts to bring them into line with the observations of the Committee of Experts, had been completed after extensive consultations with the relevant associations, and were to be submitted for the Government's approval. Moreover, a draft Civil Service (Amendment) Bill had been submitted to the Public Services Association, prior to discussions to be held thereon.
>
> The Committee had hoped that the Government would be in a position to indicate in its next report whether the above-mentioned Bills had been promulgated and, if so, to provide copies of these amendments.

The Government had stated that it was still actively considering the questions of amending sections 59(4)(a) and 65 of the Industrial Relations Act, Chapter 88:01, along the lines suggested by the Committee. It was also studying the comments of the Committee with respect to the amendment made to section 61 of the same Act, by the promulgation of Act No. 5 of 1987.

The Committee had strongly hoped that the Government would implement legislation along the lines it had been suggesting for many years and urged the Government once again to indicate in its next report the measures taken to bring its legislation into conformity with the Convention.

In addition, in the light of the comments made by the Staff Association of the Central Bank of Trinidad and Tobago in a letter dated 7 November 1990 relating to the insufficient observance of the Convention in this sector, the Government had indicated that in the context of a revision of the Central Bank Act, 1964, which was currently being undertaken by the Government, consideration would be given to the establishment of an appropriate mechanism to deal with the grievances of Central Bank employees.

The Committee had requested the Government, in its next report, to keep it informed of any developments in this respect.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Tunisia (ratification: 1957)

With reference to its previous request for information on progress made in revising the Labour Code so as to bring it into full conformity with the Convention, the Committee notes with interest from the Government's report that the Bill to revise the Labour Code contains the same definition of the concept of essential services as that which was recommended by the Committee and the Committee on Freedom of Association. Under the terms of article 381 ter of the Bill, "is considered as an essential service, any service whose interruption could endanger the life, personal safety or health of the whole or part of the population".

The Committee notes, however, that the Government's report makes no mention of the Committee's previous comment on the requirement of the prior authorization of the central trade union organization for the calling of a strike (section 376 bis). The Government had indicated in its previous report that this requirement would be retained and would not be replaced by the obligation to obtain a majority vote of all the workers in an enterprise and that the maintenance of this system was desired by the UGTT and the UTICA.

The Committee points out once again that this provision is such as to prejudice the right of trade union organizations, at whatever level, to call a strike to defend the occupational interests of their members. However, if such is the desire of the workers, this matter should be decided not by legislative means, but by the statutes adopted by the first-level trade union organizations concerned. In this connection, the Committee recalls that under the terms of Article 8(2) of the Convention, the law of the land shall not be such as to impair the guarantees provided for in this Convention.

The Committee expresses the hope that account will be taken of its comments in the Bill so as to give full effect to the Convention. It requests the Government to supply information on developments in this respect, and to supply a copy of the Labour Code once it has been adopted.

Ukraine (ratification: 1956)

The Committee notes with interest that the Declaration on the creation of the Independent Trade Unions Federation of Ukraine which provides that membership is voluntary and that members are free to leave when they wish was adopted in October 1990.

The Committee also notes that the Law on Citizens' Organizations was passed by the Supreme Soviet of Ukraine in June 1992. The Law stipulates that citizens' organizations are to be based on the following principles: that membership is voluntary; that members have equal rights; that they will have the right to govern their own affairs; that they will respect the law of the land; and that they will be free to choose their own policies and programmes. Moreover, non-interference in the activities of citizens' organizations by public authorities and officials is guaranteed by the Law as is the right of these organizations to establish and join federations and confederations, and to affiliate with international workers' and employers' organizations on a voluntary basis. The Law also stipulates that although such organizations can be dissolved following a court ruling, they cannot be dissolved or suspended by administrative authority.

The Committee looks forward to receiving a copy of the Trade Unions Law; the Law on Collective Agreements; and the Law on the Settlement of Industrial Disputes referred to by the Government, along with its next report.

United Kingdom (ratification: 1949)

The Committee takes note of the Government's report and complementary information. It also notes the extensive discussion which took place in 1992 at the Conference Committee concerning mostly the situation at the Government Communications Headquarters in Cheltenham (GCHQ), as well as the comments made by the Trades Union Congress (TUC) in several communications in 1992.

1. Dismissal of workers at the GCHQ

In its previous observation, the Committee had urged the Government rapidly to resume constructive discussions calculated to lead, through genuine dialogue, to a compromise acceptable to both sides on this issue which it first considered in 1985. At its 1992 session, the Conference Committee, whilst deploring that certain initiatives had not resulted yet in a genuine dialogue, took note of the Government's stated intention to reach a solution on this question, and expressed the firm hope that this statement would be rapidly followed by a substantive, frank and constructive dialogue, carried out in good faith, so that a solution could be found to this problem, in full conformity with the Convention.

The Committee notes that, following the Conference, in an exchange of letters between the TUC and the Government, the latter reiterated that it continued to attach fundamental importance to the safeguarding of security and the continuity of essential operations at GCHQ, and could not contemplate any change in trade union membership or representation at GCHQ which risked disruption to these operations, or conflicts of loyalty for staff. Whilst stating that there could be no guarantee that a solution acceptable to both parties could be found, the Government indicated that it was ready to consider carefully any proposal compatible with its basic position. In this respect, the Committee noted with interest that, according to the Government, high-level meetings took place between the Government and the unions in October 1992 and January 1993, and that other contacts are expected to follow.

The Committee also noted that the Government Communications Staff Federation (GCSF), the workers' organization accepted by the Government at the GCHQ, had filed an appeal to the Employment Appeal Tribunal (EAT) against the decision of the Certification Officer that they should not be awarded a certificate of independence. The EAT dismissed the GCSF appeal in its decision of 10 December 1992.

The Committee notes with interest a resumption of the dialogue in this matter and firmly hopes that it will lead to a positive outcome that is satisfactory to both parties. It requests the Government to keep it informed on developments in its next report.

2. Unjustifiable discipline (sections 64-67 of the Act of 1992)

The Committee recalls that its previous comments in this matter concerned the provisions (formerly section 3 of the 1988 Act) that prevented trade unions from disciplining their members who refuse to participate in lawful strikes and other industrial action or who seek to persuade fellow members to refuse to participate in such action. In its previous observation, the Committee requested the parties to provide particulars on the exact scope of these provisions and on their application in practice.

In its report, the Government:

- confirms that sections 64-67 of the 1992 Act impose no limitation on what may, or may not, be included in a union's rules;
- states that unions remain free to adopt any rules they wish, subject to the need to respect fundamental human rights and the law of the land, and that it considers it right, therefore, that the law should provide a remedy to prevent individuals being exposed to excessive pressure and penalties for refusing to act unlawfully against their convictions by breaking contracts of employment to which they are party;

- mentions it is aware of more than 240 cases where, since the passage of the 1988 Act, individual union members have complained to industrial tribunals they had been so disciplined (complaints upheld in 130 cases);
- gives examples of judicial decisions concerning certain disciplinary action taken against trade union members by their union, for crossing picket lines during a strike.

In its communication of 24 December 1992, the TUC states that, although trade unions may still adopt their own rules on disciplinary procedures to deal with strike-breakers, they are unable to apply them legally. It also gives examples on how the law is applied in practice.

The Committee agrees with the Government that, technically, sections 64-67 impose no direct or explicit limitation on what may or may not be included in trade union rules. However, section 66(1) allows individual union members to complain to an industrial tribunal that they have been "unjustifiably disciplined" within the meaning of section 65(1), which includes in particular disciplinary measures, by a union, against a worker who crossed picket lines set up by fellow union members during a strike. The judicial decisions specifically mentioned by the Government and the TUC demonstrate that, while trade unions are "free" to adopt any rules they wish in this respect, they face serious financial penalties if and when they enforce them.

The Committee considers that these provisions remove the right of trade unions to express their dissatisfaction with their members who refuse to comply with, or seek to subvert democratic decisions by other union members to take lawful industrial action. The Committee requests the Government seriously to take into consideration the damage that could result therefrom for the normal functioning of trade unions, within the framework of the existing industrial relations system. It requests the Government to consider amending the said provisions, so that trade unions may be allowed really to express their dissatisfaction with members who refuse to comply with democratic decisions to take lawful industrial action.

3. Indemnification of union members and officials (section 15 of the 1992 Act)

The Committee recalls that its previous comments in this matter concerned the provisions (formerly section 8 of the 1988 Act) which make it unlawful for the property of any trade union to be applied so as to indemnify any individual in respect of any penalty which may be imposed upon that individual for an offence for contempt of court, and provide for recovery by the union of any sums improperly paid by way of such indemnity. In its previous observation, the Committee requested the parties to supply it with information on the practical application of these provisions, in particular by providing the texts of quasi-judicial or judicial decisions issued in these matters.

In its report, the Government:

- reiterates that where an individual merely acts as a passive "agent" of a union, any penalty for an offence is likely to be imposed upon the union, but where a penalty is imposed on an individual this would imply a clear finding of wilful and unlawful action by that individual;

- states that the language of the statute (which refers explicitly to the application of union funds towards the payment for an individual of a penalty imposed "for an offence or for contempt of court") means that these provisions are relevant only to indemnification for a criminal offence or for contempt of court;
- reports that it is unaware of any: (i) judicial decision whereby a court has imposed a penalty on an individual in such circumstances; (ii) actual court proceedings brought by union members under section 15(3) of the 1992 Act, i.e. to obtain authorization from a court to recover the value of an unlawful indemnity on the union's behalf and at the union's expense.

In its communication of 24 December 1992, the TUC states that it is unaware of any cases under the above-mentioned provision.

The Committee takes due note of all the information submitted. Whilst it remains unclear as to the exact significance and potential impact of the distinction made by the Government between "passive agents" and individuals, it notes that so far, the courts have not issued decisions which would confirm its earlier concern that section 15 might, in practice, be applied in a way which violates the Convention. The Committee invites the Government in its future reports, and the TUC in their future observations, to keep it informed of the practical application of this provision.

4. Immunities in respect of civil liability for strikes and other industrial action (sections 223 and 224 of the 1992 Act)

The Committee recalls that its previous observations in this matter concerned the provisions (formerly sections 4 and 9(2) and (3) of the 1990 Act) which removed the immunities (or, more accurately, "protections") which existed previously in respect of, among others: (a) certain forms of "secondary action" (i.e. action by workers having no dispute with their own employer); (b) industrial action organized in support of employees dismissed while taking part in "unofficial" industrial action. The Committee made comments on this subject in 1989 and 1991, and in 1992, requested the Government to provide full particulars on the objective and effects of these provisions.

Referring to its previous replies, the Government stresses in its report that it cannot find in the Convention any authority for the conclusion that calling for, or otherwise organizing, these particular forms of industrial action ought to have legal protection.

The Committee examined carefully the Government's elaborate reply, as well as the supporting material (intended for trade unions, employers and interested persons) explaining in lay terms the legal situation before and after the above-mentioned amendments, and their implications. The position now is that there is no immunity for organizing "secondary" industrial action (sometimes called "sympathy" or "solidarity" action), other than inducement in the course of peaceful picketing; immunity has also been removed in respect of industrial action organized in support of employees dismissed while taking part in "unofficial" industrial action.

The Committee refers to the detailed analysis in its 1989 observation on this issue, and to its following observations, where the legal positions of both the Government and the TUC were extensively described. In order to make a fully informed decision, it requests them to supply particulars on the application in practice of sections 223 and 224 of the 1992 Act, in particular by providing the texts of judgements or quasi-judicial decisions involving the application of these statutory provisions.

5. Dismissals in connection with industrial action

In view of the Government's request and given that some of the issues raised under this heading may be the subject of other instruments, the Committee will deal with this related issue in its next examination of the Government's report under Convention No. 98. It invites the Government and the TUC to provide in the meantime particulars on the legal and factual situation in this respect, including examples of judicial or quasi-judicial decisions involving the application of the relevant provisions.

6. Complexity of the legislation

In its previous observations, the Committee had expressed its concern at the volume and complexity of legislative changes since 1980 in relation to the matters covered by the Convention, a concern which was reiterated by the workers' members at the 1992 Conference.

The Committee notes with interest that, in keeping with the assurances given by the Government at the 1992 Conference, the Trade Union and Labour Relations (Consolidation) Act 1992, was adopted and came into force in October 1992. This document does bring together much existing employment legislation. The Committee hopes that, together with the free booklets published by the Government, explaining the legislation as it applies to employers, workers and trade unions, it will contribute to a better understanding of the legislation by all parties concerned.

Yemen (ratification: 1976)

With reference to its previous comments, the Committee notes with interest the Government's report and the information provided by a Government representative at the Conference in June 1991, as well as section 39 of the Constitution of May 1991 and sections 126, 127 and 128 of Act No. 19 of 1991 issuing the general conditions of service of the public service, which guarantee the right to organize of all citizens, including the right of public servants to establish and join organizations of their own choosing.

The Committee notes the assurances given by the Government that freedom of association is a basic right of each citizen and that it has undertaken to guarantee the respect and satisfactory application of the Convention through the enactment of new labour legislation which will take into account the comments of the Committee in the draft texts of a new Labour Code and a Bill respecting trade unions.

In this context, the Committee recalls that it is necessary to bring the legislation into conformity with the Convention on the following points:

- guaranteeing the establishment of trade unions without prior authorization (section 154 of the Labour Code of 1970; section 57 of the regulations respecting the model statutes of the General Trade Union of manual and non-manual employees);
- introducing trade union pluralism for all workers by amending sections 129, 138 and 139 of the Labour Code and sections 5(h), 41, 42, 43 and 47(a) of the Regulations which introduce a single trade union system in law;
- reducing the high number of workers required to establish trade unions (sections 21, 137, 138 and 139 of the Labour Code; section 55 of the Regulations);
- abolishing the powers of the public authorities to interfere in; (a) the financial administration of trade unions (sections 132(2) and (4) and 133 (13) and (14) of the Labour Code); (b) trade union activities (section 145(2) of the Labour Code and section 34 of the Regulations); and (c) the formulation of their constitutions and rules (section 150 of the Labour Code and section 62 of the Regulations);
- raising the prohibition on political activities by trade unions (section 132 of the Labour Code) and the restrictions placed on their activities to support their claims (section 16 of Ministerial Order No. 42 of 1975 concerning the procedures for the settlement of industrial disputes);
- giving foreign workers the right to hold trade union office, at least after a reasonable period of residence in the country (section 142(3) of the Labour Code); and
- abolishing the possibility of the dissolution of a trade union by administrative authority (section 157 of the Labour Code).

The Committee reminds the Government that the Office is at its disposal for any assistance which it might need for the preparation of amendments to give effect to the Convention.

The Committee requests the Government to indicate any progress achieved in these fields in its next report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Argentina, Australia, Austria, Belarus, Bolivia, Bulgaria, Cameroon, Canada, Central African Republic, Chad, Colombia, Congo, Côte d'Ivoire, Djibouti, Dominica, Dominican Republic, Ecuador, Ethopia, Gabon, Guinea, Hungary, Ireland, Kuwait, Madagascar, Mexico, Nicaragua, Panama, Philippines, Poland, Portugal, Romania, Saint Lucia, Senegal, Swaziland, Sweden, Switzerland, Togo.

Information supplied by Burkina Faso, Comoros and France in answer to direct requests has been noted by the Committee.

Convention No. 88: Employment Service, 1948

Sierra Leone (ratification: 1961)

The Committee notes from the Government's reply to its earlier comments that the draft Employment Service Regulations to which the Government has been referring since 1974 have still not been adopted. The Government indicates that the question of the adoption of the draft Regulations is being placed on the agenda of the next meeting of the Joint Consultative Committee.

The Committee is very hopeful that the new provisions will be adopted in the very near future and that the next report will contain the information previously requested on: (a) the setting up of national, and where necessary regional and local, advisory committees ensuring the participation of employers' and workers' representatives in equal numbers in the organization and operation of the employment service and in the development of the general policy of this service, in accordance with Articles 4 and 5 of the Convention; and (b) the determination of the functions of the employment service in accordance with Article 6.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Colombia, Djibouti, Finland, Guinea-Bissau, Lebanon, Libyan Arab Jamahiriya, San Marino.

Convention No. 89: Night Work (Women) (Revised), 1948 [and Protocol, 1990]

Requests regarding certain points are being addressed directly to Kuwait, Lebanon.

Convention No. 90: Night Work of Young Persons (Industry) (Revised), 1948

A request regarding certain points is being addressed directly to Lebanon.

Convention No. 91: Paid Vacations (Seafarers) (Revised), 1949

Brazil (ratification: 1965)

In reply to the Committee's previous observation, the Government has referred once more to sections 146 and 147 of the Consolidated Labour Laws (CLL) and stated that the rights laid down in the Convention are laid down in CLL independently of any collective agreements.

The Committee recalls that, under Article 3(2) and (3) and Article 7 of the Convention, seafarers with at least six months' continuous service should at the end of their service be entitled to leave in respect of each completed month of service (Article 3(2)) and should receive the usual remuneration for each day of vacation holiday due (Article 7); the same rights should accrue to seafarers discharged through no fault of their own before the completion of six months' continuous service (Article 3(3)). Section 147 CLL grants the right to compensation for a proportionate fraction of annual holiday to workers discharged without due cause or whose contract terminates on the due date before 12 months' service is completed. This gives effect to Article 3(3), and also to Article 3(2), to the extent that service is terminated at the end of a contract on the specified date. But it is not in conformity with Article 3(2) and Article 7 in the case of seafarers who complete between six and 12 months' continuous service and who terminate their contracts on their own initiative or are discharged for due cause. Such seafarers too should under the Convention, be entitled to a proportionate holiday and the related compensation. The Committee also noted earlier that, under section 146 CLL, where a contract ends after 12 months' service, a worker is entitled to compensation for a fraction of the leave corresponding to any period of service of less than 12 full months only when discharged without due cause. This is not in conformity with Article 3(2) and Article 7, under which any seafarer should be entitled to a proportionate holiday and the related remuneration at the end of not less than six months' continuous service, no matter what the reason for termination. The Committee again requests the Government to indicate the measures proposed to ensure the application of the Convention on these points, whether or not the shipowners and seafarers are covered by collective agreements.

The Committee also recalls that, under Article 4 of the Convention, annual vacation holiday should be given by mutual agreement at the first opportunity as the requirements of the service allow. Section 136 CLL provides for annual holiday to be granted at the period most suitable to the employer. In this respect, the Committee notes with interest that the CLL is to be revised so that leave is taken in accordance with the Convention, and it hopes the next report will include further details.

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Angola, Guinea-Bissau, Israel, Poland, Tunisia.

Convention No. 92: Accommodation of Crews (Revised), 1949

Algeria (ratification: 1962)

With reference to its previous comments, the Committee notes that no legislation has yet been adopted setting out detailed crew accommodation requirements in accordance with Articles 6 to 17 of the Convention and that no measure appears to have been taken to this end despite the Government's statement in its previous report that the Ministry of Transport was examining the matter. In this respect, the Committee recalls that, as provided by Article 3, paragraph 1, "each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention". The Committee once again hopes that the necessary measures will be taken in the very near future and that the next report will contain appropriate information in this repsect.

Point V of the report form. The Committee notes the inspection reports supplied by the Government. It notes that these do not deal specifically with the application of the Convention and only concern annual inspection visits and visits upon the departure of the vessel. It hopes that in future the Government will be in a position to supply reports containing specific information concerning the application of the provisions of the Convention and concerning inspections carried out when a ship is registered or re-registered, when the crew accommodation of a ship has been substantially altered or reconstructed, or following a complaint by the members of the crew to the competent authority, as provided by Article 5.

Iraq (ratification: 1977)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee has noted the Government's replies to its previous comments. It notes that Instructions No. 22 of 1987 concerning safety and health at work do not seem to apply to ships, since they do not relate to the public sector. It recalls that, while there is some legislation referring in general terms to inspection in the Civil Marine Service and dealing with some specific aspects of working conditions, there appear to be no detailed laws and regulations as required by Article 3 of the Convention ensuring the application of Parts II (Planning and Control of Crew Accommodation), III (Crew Accommodation Requirements) and IV (Application of Convention to Existing Ships). The Committee fully appreciates the efforts made by the competent maritime administration, as mentioned in the report. However, it would hope that the Government will envisage taking the necessary legislative and practical measures - perhaps with the benefit of the ILO's technical advice - in order to apply the Convention in full. It hopes the next report will include details of the steps taken or proposed to this effect.

Italy (ratification: 1981)

Further to its previous comments, the Committee notes the Government's statement that the General Directorate of Maritime and Port Work has almost completed the preparation of draft legislation, accompanied by technical regulations, which should respond to the requirements of the Convention and which will be submitted to the Council of Ministers as soon as the Ministries concerned have issued their opinions. It recalls that the Government has been referring to the adoption of draft legislation since 1983.

The Committee also notes the comments made by the Italian Confederation of Shipowners (CONFITARMA) and the Italian Association of Shipping Lines (FEDARLINEA) which consider that the current legislation is in conformity with the Convention, and that in any case the Convention is applied. However, the Italian Federation of Transport Workers CGIL (FILT/CGIL) states that the Act in question (No. 1045 of 1939) is not applied to the ships concerned and that the Ministry of the Merchant Navy, which is the competent authority to approve plans for the accommodation of crews, is not at present able to examine these plans.

The Committee hopes that the Government will be able to indicate in its next report that the draft legislation has been adopted and that it will supply a copy. The Committee requests the Government to supply detailed information on the application of the Convention as set out in the report form, irrespective of whether its application is ensured by the legislation of 1939 or some new text. It hopes that the Government will respond in particular to the comments made by the FILT/CGIL, in view of the provisions of Article 4 of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Liberia (ratification: 1977)

Further to its general observation, the Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that, whilst certain provisions have been supplied in relation in particular to the inspection of crew accommodation, there appears still to be none of the detailed regulation of crew accommodation required by Part III of the Convention. The Committee hopes that the legislation necessary to ensure the application of the Convention in full will soon be enacted, and that the Government will supply a report including full details.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Denmark, Egypt, France, Germany, Greece, Panama, Poland, Portugal, Russian Federation, Spain, United Kingdom.

Information supplied by Belgium, Finland, Netherlands, New Zealand, Norway in answer to a direct request has been noted by the Committee.

Convention No. 94: Labour Clauses (Public Contracts), 1949

Brazil (ratification: 1965)

With reference to its previous observations, the Committee notes that the Government considers the Convention to be applied, in practice, through the provisions of the legislation in force.

The Committee once again wishes to point out that the aim of Article 2, paragraphs 1 and 2, of the Convention is to ensure that, through the insertion of appropriate labour clauses in public contracts, the workers employed by a contractor and paid indirectly out of public funds enjoy wages and conditions of labour which are not less favourable than those of other workers doing similar work. The additional protection afforded by these labour clauses in public contracts is deemed to be necessary because this category of workers may not be covered by collective agreements and other measures regulating wages, and is often more exposed than others because of the competition between firms tendering for public contracts.

In this connection the Committee notes that under Article 2, paragraph 3, the terms of the clauses to be included in contracts shall be determined by the competent authority, in the manner considered most appropriate to the national conditions, after consultation with the organizations of employers and workers concerned. Such clauses may, for instance, be inserted into public contracts through regulations or other instrument such as an administrative decree, and not necessarily through legislation (cf. Article 4). The Committee again suggests that the Government consider consulting the Office when taking the necessary steps to apply the Convention. It hopes that the Government will soon be able to ensure the conformity of public contracts with the provisions of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Mauritania (ratification: 1963)

With reference to its previous comments, the Committee notes with satisfaction that Inter-Ministerial Order No. 035 of 3 June 1992 establishes the labour clauses to be inserted in administrative contracts of all types concluded in the name of the State and on behalf of the State, public communities and public establishments.

The Committee requests the Government to state whether the Order has been published (Article 2, paragraph 4, of the Convention) and whether the measures by which these clauses are to be brought to the attention of the workers concerned have been determined by order of the Minister of Labour under section 50 of Decree No. 80.182/PG (Article 4(a)(iii)).

The Committee would be grateful if the Government would supply information on the manner in which effect is given to the Convention in practice (point V of the report form).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bahamas, Djibouti, Egypt, Iraq, Saint Lucia.

Convention No. 95: Protection of Wages, 1949

Egypt (ratification: 1960)

Article 4, paragraph 2, of the Convention. In comments made for a number of years, the Committee noted that, according to the Government, allowances in kind are governed by the internal regulations of the various services and are subject to all legislation respecting wages since they form part of the wages by virtue of section 1 of the Labour Code, Act No. 137 of 1981. It has already pointed out that these regulations could theoretically be changed at the will of the chief of the service or the owner of the establishment and that they are not, therefore, sufficient to ensure the application of this Article of the Convention.

The Government states in its report that it would be difficult to introduce in the national legislation a text defining the allowances in kind because the nature of work varies from one industry to another.

The Committee points out that this provision of the Convention requires the Government to take appropriate measures to ensure the following two conditions: (i) allowances in kind should be appropriate for the personal use and benefit of the worker and his family; and (ii) the value attributed to such allowances should be fair and reasonable. It does not necessarily involve definition in the legislation of the actual allowances in kind to be paid in each industry. Noting from the Government's report that it is reviewing the national legislation in order to bring it into conformity with the international labour standards, the Committee hopes that necessary action will soon be taken to ensure the compliance with the Convention on this point.

Iraq (ratification: 1960)

With reference to its previous comments, the Committee notes the discussion which took place at the Conference Committee in June 1992, and the information supplied by the Government in its report.

1. In its previous comments, the Committee noted the report of the Committee set up for the examination of the representation made by the Federation of Egyptian Trade Unions under article 24 of the ILO

Constitution, alleging non-observance by Iraq of a certain number of Conventions, including Convention No. 95. It also noted that the Federation of Egyptian Trade Unions communicated in a letter dated 13 August 1991 information gathered so far by the Government of Egypt concerning the number of Egyptian workers with assets in Iraqi banks and savings banks (220,886 workers), and the total amount of such assets (US$495,274,700). The Committee therefore requested the Government to supply information on any measures taken or envisaged with the view of determining the number of workers involved and the amounts owed to them and of the effective payment of such amounts.

The Government's explanation provided to the Conference Committee and in the report is that the workers who left Iraq prior to the embargo had received wages that were owed to them including the percentage which should have been transferred in foreign currency within the appropriate deadlines. It also indicates that the workers who left Iraq since the imposition of the embargo, which resulted in the freezing of Iraqi assets in foreign banks, received their wages in conformity with the law, with the exception of the percentage to be transferred in foreign currency.

The Committee notes these indications. It also notes that the detailed information, which a Government representative at the Conference Committee stated would be sent, concerning the number of Egyptian workers affected and the amounts owing has not been received. The Committee again requests the Government to take all appropriate measures to ascertain the number of workers involved and the amounts owed to them, to take measures necessary for the effective payment of the amounts thus determined, and to communicate information on the measures taken or envisaged.

2. The Committee recalls that it requested in its earlier observation the Government to supply information on certain points regarding the payment of wages to foreign workers, especially those from the Philippines. It has also noted section 7 of the Labour Code which prescribes the treatment of Arab workers on an equal footing with Iraqi workers in regard to the rights and duties set forth in the Code, and an Agreement between Iraq and the Philippines stipulating the reciprocal equal treatment of migrant workers and nationals. The Committee thus requested the Government for information concerning the protection of wages of non-Arab foreign workers but not for the Filipinos, including the texts of relevant agreements, as well as information on the regulations and procedures for the remittance of a part or all of the wages to the country of origin of the foreign workers.

A Government representative indicated at the Conference Committee that the bilateral agreement with the Philippines had been renewed, that it included provisions contained in Convention No. 95, and that transfer of funds of migrant workers to foreign countries had been made in compliance with the appropriate directions.

The Committee notes these indications. It notes that the Government's report refers in general terms to the embargo as the reason of the difficulties but does not contain any further details. The Committee again requests the Government to indicate what measures have been taken or envisaged concerning the protection of wages of non-Arab foreign workers. It also asks the Government to communicate copies of existing bilateral agreements concerning the payment of wages to foreign workers, including, in particular, the above-mentioned Agreement with the Philippines, as well as a copy of the directions regulating the remittance of migrant workers' wages to the foreign countries.

Mauritania (ratification: 1961)

In its previous comments, the Committee referred to the conclusions of the Committee set up to examine the representation made by the National Confederation of Workers of Senegal under article 24 of the ILO Constitution, which dealt in particular with the application of this Convention. In the Committee's report, which was adopted by the Governing Body at its 249th Session (February-March 1991, Official Bulletin, Vol. LXXIV, 1991, Series B, Supplement No. 1), the Government is asked to take all the necessary measures with a view to a final settlement of all the wages due to the persons who were obliged to leave Mauritania following the events of April 1989, in accordance with Article 12, paragraph 2, of the Convention. The Committee set up to examine the representation noted in its report that the national legislation establishes protection similar to that contemplated in Article 12, paragraph 2, of the Convention, but that the legislation had not been applied in the case in point. It also considered that the Government should take all the necessary measures to establish or to have established the amounts due to the workers concerned and to make a final settlement of their wages or ensure that it is made. In order to do this, the committee set up to examine the representation considered it highly desirable that the Government request the assistance of the ILO and of other bodies which took part in assisting and receiving the workers concerned.

The Government states in its report that the process of normalizing relations between the two countries is under way following the re-establishment of diplomatic relations with Senegal in April 1992 and the reopening of the frontiers since May 1992. Furthermore, bilateral technical commissions are currently working to settle the various questions.

The Committee notes these statements. It also notes that a direct contacts mission went to Mauritania in May 1992 and that the Government indicated on that occasion that the solution to the problems raised in the representation would be found in the context of the definitive settlement of the conflict with Senegal.

While recalling that the application of the provisions of the Convention is not based on the principle of reciprocity, the Committee requests the Government to supply more detailed information on the measures which have been taken or are envisaged to settle the above problem and their results.

Russian Federation (ratification: 1961)

The Committee takes note of the comments received from the Trade Union Council of the Republic of Karelia, alleging that in mid-1992, during two months, about 400,000 workers did not receive their wages in time, and that on 20 June 1992, the amount of non-paid wages, grants and pensions exceeded one thousand million roubles. The Trade Union Council holds the Government responsible for this development which it deems unlawful and in violation of the Convention.

In its reply to these comments, the Government states that in the course of the transition to a market economy, the freeing of prices of goods, together with an excessive increase in wages that was often not matched by output, has led to an imbalance in the volume of money available to pay for that output; producers found themselves with huge mutual debts and in a situation in which banks found themselves without adequate credit resources or cash available for the payment of wages. However, the President and the Government of the Russian Federation were taking steps to stabilize the economy and to regulate the payment of workers' wages.

The Government further states that a procedure for the index-linking of unpaid wages in state enterprises, institutions and organizations has been established. This procedure provided for the budget of the Russian Federation to be used for the index-linking in May and June 1992 of the unpaid and deposited wages of industrial and office workers at the rate of 80 per cent per annum (6.6 per cent monthly) or 0.22 per cent in respect of each day on which the payment of wages is withheld.

The Committee points out that according to Article 12, paragraph 1, wages should be paid regularly. The non-payment of wages and their depositing cannot be considered to be in line with this provision of the Convention.

The Committee recalls the conclusions of the Committee set up to examine the representation made by the General Confederation of Portuguese Workers alleging non-observance by Portugal of, inter alia, this Convention (cf. ILO Official Bulletin, Vol. LXVIII, 1985, Series B, Special Supplement 4/1985) in paragraph 41 of its report. The above Committee noted that the effective application of the Convention, through the national provisions giving effect to it, should comprise three principal aspects: supervision, appropriate penalties to prevent and punish infringements and steps to make good the prejudice suffered.

The Committee hopes that the necessary measures will be implemented through legislation and in practice, to enable the enterprises concerned to fulfil their obligations vis-à-vis the workers, and asks the Government to report on any developments in this respect.

The Committee is raising further comments in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Argentina, Central African Republic, Djibouti, Guyana, Islamic Republic of Iran, Lebanon, Madagascar, Russian Federation, Saint Lucia, Sierra Leone, Solomon Islands, Yemen.

Convention No. 96: Fee-Charging Employment Agencies (Revised), 1949

Pakistan (ratification: 1952)

Part II of the Convention. The Committee takes note of the Government's reply to its earlier comments. The Government indicates, as in its previous reports since 1987, that draft Rules under the Fee-Charging Employment Agencies (Regulation) Act, 1976, have been formulated and circulated to the provincial governments for their comments. The Committee notes that these rules are yet to be finalized. It therefore once again expresses the hope that the Government will not fail to take the necessary measures to bring the Act into operation in the very near future in order to give legislative effect to the requirement of the Convention concerning the abolition of fee-charging employment agencies "within a limited period of time", but not "until a public employment service is established" (Article 3 of the Convention).

In its earlier comments, the Committee also noted the information supplied by the Government as regards the regulation of the "overseas employment promoters", under the Emigration Ordinance, 1979 and rules made thereunder. It asks the Government to continue to supply, in its reports, any relevant information on the fee-charging employment agencies for which exceptions are allowed under Article 5 of the Convention, as required under Article 9 of the Convention (number of agencies concerned, scope of their activities, reasons for the exceptions, supervision of their activities).

Finally, the Committee would be grateful if the Government would give a general appreciation of the manner in which the Convention is applied, in reply to point V of the report form.

[The Committee asks the Government to report in detail for the period ending 30 June 1993.]

Sri Lanka (ratification: 1958)

Part III of the Convention. The Committee notes the Government's reply to the observations made in March 1990 by the Lanka Jathika Estate Workers' Union, as well as the new observations made by this organization and by the Employers' Federation of Ceylon, transmitted by the Government with its last report.

The Government refers to the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985, which contains provisions to control the activities of foreign employment agencies, in conformity with Article 10 of the Convention. It points out that this Act has been enacted to strengthen the enforcement machinery dealing with the regulation of foreign employment agencies. It recognizes, however, that the exploitation of workers exists to a certain degree, though every effort is being taken to eradicate the existent malpractices. It indicates, in particular, that such agencies are inspected on a regular basis by the officials of the Bureau and deterrent action is taken for violation of the law, and gives statistics regarding inspections carried out and cases filed.

The Lanka Jathika Estate Workers' Union, in its new observations transmitted with the Government's report, concedes the fact that the attention of the Government has been concentrated on this issue and that specific steps appear to have been taken in order to control the activities of foreign employment agencies. However, according to this organization, the problem of proper and adequate supervision of activities of these agencies by the national labour authority continues to prevail in practice, which is mainly due to the lack of sufficient and adequate staff, and to administrative constraints. The Union requests the Government to adopt and implement a comprehensive work programme to meet this challenge.

As to the Employers' Federation of Ceylon, it considers that the comments of the workers' union movement warrant serious consideration as such illegal practices do exist, while noting also that in the recent past the Government has taken measures to strengthen its enforcement capabilities.

The Committee would be grateful if the Government would continue to supply information on the effect given in practice to Act No. 21 of 1985. It asks the Government to provide, in its next report, relevant extracts of the annual activity reports that the Bureau of Foreign Employment is required to submit under section 19 of the Act, as well as the other information on practical application of the Convention requested under point V of the report form.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Djibouti, France, Panama, Spain.

Convention No. 97: Migration for Employment (Revised), 1949

Italy (ratification: 1952)

See under Convention No. 143.

Portugal (ratification: 1978)

The Committee notes the information supplied in the Government's report, including the observation of the Confederation of Portuguese Industry (CIP) on the application of the Convention.

It further notes with satisfaction the adoption of Act No. 22/92 of 14 August 1992 repealing the reciprocity requirement, under Act No. 2127 of 3 August 1965, for migrant workers and members of their families in Portugal, to have access to compensation for industrial accidents and occupational diseases.

United Kingdom (ratification: 1951)

Referring to its previous comment, the Committee notes with interest that following constructive contacts with the Office, the United Kingdom will continue to be bound by the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Cyprus, France, Guyana, Israel, Norway, Saint Lucia, Spain, Uruguay, Zambia.

Convention No. 98: Right to Organise and Collective Bargaining, 1949

Cameroon (ratification: 1962)

The Committee notes the entry into force of Law No. 92/007 of 14 August 1992 issuing the new Labour Code, and the observation of the Cameroon Workers' Trade Union Confederation (CSTC).

1. The Committee notes that the CSTC pointed out that under section 6(2) of the new Labour Code, any person forming a trade union or employers' association that has not yet been registered and who acts as if the said union or association has been registered shall be liable to prosecution.

The Committee considers that section 6(2) of the new Labour Code is at variance with the established right of workers to adequate protection against all acts of discrimination likely to impair freedom of association in respect of their employment. It therefore asks the Government to take the necessary measures to repeal the provisions which are contrary to the Convention and to guarantee to all workers, and particularly persons who form trade unions and trade union leaders, adequate protection, accompanied by effective and sufficiently dissuasive sanctions, against acts calculated to prejudice them by reason of union membership or because of participation in union activities, in order to bring its legislation into conformity with Article 1(2) of the Convention. It asks the Government to indicate any measures taken in this respect in its next report.

2. The Committee is also addressing a request directly to the Government.

Greece (ratification: 1962)

The Committee notes the discussions at the Conference Committee in June 1992 on collective bargaining and the conclusions of the Committee on Freedom of Association in Case No. 1632 (286th Report, adopted by the Governing Body at its 255th Session, March 1993) concerning the restrictions on collective bargaining for workers in the public sector in the broad sense of the term, enterprises of public interest, local administration organizations and state banks, following the adoption of Act No. 2025 of 1992.

The Committee, in the same way as the Committee on Freedom of Association, expresses the firm hope that, as provided for by Act No. 2025, the Act did lapse on 31 December 1992 and requests the Government to confirm that this is so in its next report. It trusts that in future the Government, in accordance with its undertakings, will emphasize the principle of the voluntary bargaining of collective agreements in order to settle terms and conditions of employment, including those in the public sector.

The Committee requests the Government to keep it informed of developments in the situation in this respect.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Guinea-Bissau (ratification: 1977)

The Committee takes note of the information communicated by the Government according to which Act No. 8/91 on freedom of association and Act No. 10/91 on civil requisition have entered into force.

Indonesia (ratification: 1957)

With reference to its previous observations, the Committee takes note of the Government's reports, as well as of the written and oral information supplied to the Conference Committee in June 1991 and the discussion which took place there.

The Committee recalls that its comments have for a number of years concerned the following points:

- the absence of specific legislative provisions accompanied by sufficiently effective and dissuasive sanctions to protect workers against acts of anti-union discrimination at the time of recruitment or during the employment relationship (Article 1 of the Convention);
- similarly, the absence of sufficiently detailed legislative provisions to protect workers' organizations against acts of interference by employers or their organizations (Article 2);
- the restriction on free collective bargaining whereby only federations covering at least 20 provinces and grouping a large number of trade unions may conclude collective agreements, which is contrary to Article 4.

1. Protection against acts of anti-union discrimination. The Committee notes that the Government repeats its previous statements that the current legislative provisions provide sufficient protection at the time of recruitment and during the employment relationship. The Committee notes from the Government's report that the Circular Letter of the Director-General of Industrial Relations and Manpower Protection No. 113/M/BW/90 provides that the termination of employment connected with the establishment, membership and management of a trade union will not be permitted. It also notes that section 11(1) of Act No. 14/1969 states that "Every worker has the right to establish and

become a member of a trade union" and that Ministerial Decision No. 120 of 1988 constitutes a "Code of Conduct" rather than a statutory protection of sufficiently dissuasive force. The Committee once again draws the Government's attention to the wording of Article 1 of the Convention, which refers to "adequate" protection against anti-union discrimination. In the Committee's opinion, the current compensation provisions alone are not sufficient to ensure such adequate protection and requests once again the Government to take appropriate measures accompanied by sufficiently effective and dissuasive sanctions so that workers can exercise their trade union rights without fear of anti-trade union reprisals. It would ask the Government to indicate in its next report the legislative provisions, especially concerning possible discrimination *at the time of recruitment* and *during employment*.

2. *Protection of workers' organizations against acts of interference by employers*. The Committee notes that the Government maintains that the legislation, the Code of Conduct, the workers' organizations' own rules and the checkoff arrangements eliminate the possibility of interference by employers. The Committee also notes that Ministerial Decision No. 1109/MEN/1986 has been revised by Ministerial Decision No. 438/1992, which provides that an employer will not be allowed to take any action which would prove disadvantageous to the workers in relation to their activities, as well as to the membership and management of a trade union at the enterprise level. It requests the Government to provide information on how the provisions of this Ministerial Decision as well as of the Code of Conduct are applied in practice, and on indications of any progress made towards strengthening the legislation on this point.

3. *Restrictions on collective bargaining*. The Committee notes that, according to the information provided to the Conference Committee, Ministerial Regulation No. 05/MEN/1987 (which does not substantially change the system for registration of trade unions and federations, and thus makes it difficult for them to be able to bargain) is to be reviewed. The Committee thus requests the Government to inform it in its next report of progress in reviewing this legislation so as to allow free collective bargaining in conformity with the Convention.

Liberia (ratification: 1962)

The Committee notes with regret that for the second year in succession the Government's report has not been received. It must therefore repeat its previous observation, which read as follows:

> The Committee notes with regret that no measures have been taken to eliminate the discrepancies between the national legislation and the Convention.
>
> In the circumstances, the Committee can only recall its comments of the last few years which concern the following points:
>
> 1. *Article 1 of the Convention*. The provisions of the national legislation are insufficient to guarantee workers adequate protection, accompanied by sufficiently effective and

dissuasive sanctions, at the time of recruitment and during the employment relationship.

2. Article 2. The present provisions are not sufficient to ensure adequate protection of workers' organizations, accompanied by sufficiently effective and dissuasive sanctions, against acts of interference by employers and their organizations.

3. Articles 4 and 6. The possibility of collective bargaining is not offered to employees of state enterprises and other authorities, since these categories are excluded from the scope of the Labour Code, whereas under Article 6 of the Convention, only public servants engaged in the administration of the State are not covered by the Convention.

As the Committee has been repeating these comments for years, it again asks the Government to do everything in its power to take the necessary measures to ensure that full effect is given to the Convention in the very near future.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Papua New Guinea (ratification: 1976)

With reference to its previous observations the Committee takes note of the Government's report.

The Committee had asked the Government to amend the national legislation which gives the authorities discretionary power to cancel arbitration awards or declare wages agreements void when they are contrary to government policy or national interest (section 42 of the Industrial Relations Act and section 52 of the Public Service Conciliation and Arbitration Act), contrary to Article 4 of the Convention.

The Committee notes that the Government states that due to the acute shortage of manpower in the relevant department the drafting of the amendments has not yet been attended to. Noting that the Government requires the full-time input of an official to look into further amendments as well, the Committee considers that this is a case where the technical assistance of the ILO should be drawn on. It thus hopes that the Government will take up this offer as soon as possible and, with direct help in the drafting of the necessary documents, will be able to report in its next report that the necessary amendments have been tabled and adopted.

Paraguay (ratification: 1966)

The Committee regrets that it has not received the report that was due. Nevertheless, it notes the enactment of the new National Constitution in June 1992 which contains provisions which could improve the effect given to the Convention.

The Committee reminds the Government that its previous comments referred to the lack of protection provided for public servants and workers in public enterprises against acts of interference and anti-trade union discrimination and the need to guarantee them the right to bargain freely.

The Committee recalls that acts of anti-union discrimination have been the subject of many complaints to the Committee on Freedom of Association [Cases Nos. 1275, 1341, 1368, 1435, 1446, 1510, 1546 and 1656 (251st, 259th, 277th, 278th, 281st and 284th Reports of the Committee on Freedom of Association approved by the Governing Body at its Sessions of May 1987, November 1988, February 1991, May 1991, February 1992 and November 1992)].

With reference to sections 10 and 12 of the "Memoranda of agreement on labour relations and social security in the hydro-power plant Yacyreta", which prevent the establishment of associations of employers, the Committee once again requests the Government to determine the scope of these provisions and reminds it that, on the question of the right to collective bargaining, Article 4 of the Convention provides that measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

The Committee notes with interest that the new Constitution grants the right of association and of collective bargaining both to workers in the private sector and to those in the public sector, as well as the right to resort to optional arbitration (sections 96 and 97).

The Committee hopes that in the new Labour Code and the regulations issued thereunder account will be taken of the comments that it has been making for several years, as well as of the amendments proposed by the ILO through the technical assistance that it has provided, and that in this manner the legislation will be brought into harmony with the Convention. The Committee requests the Government to supply information on the measures which have been adopted in this respect in its next report.

[The Government is asked to supply full particulars to the Conference at its 80th Session and to report in detail for the period ending 30 June 1993.]

Sweden (ratification: 1950)

The Committee takes note of the comments presented by the Swedish Confederation of Professional Employees (TCO) concerning the 1990 amendments to the National Insurance Act and of the 1991 Sick Pay Act, and notes as well the information supplied by the Government in its reports.

TCO indicates that unions have long had the right to make agreements providing for up to 100 per cent of sick pay coverage and that the present legislation limits such agreements in violation of Conventions Nos. 98 and 154. The Government responds that it must cut costs and maintain equality in the social security system and that neither Act violates any of the ILO Conventions.

The Committee notes that the Government implemented new rules under the National Insurance Act from 1 March 1991 and, in the case of the Sick Pay Act from 1 January 1992. Sick pay benefits ranged from 65 to 90 per cent of an insured's qualifying income in the first enactment (now superseded) and range from 75 to 90 per cent in the second one, depending on the length of illness. Exceptions exist for chronic illnesses. Under the first plan of the National Insurance Act, the Government also created a mandatory ceiling on sick pay; if an employer or an employee's insurance provided a supplement over a specified level to the State's plan, the insuree was required to reimburse the Government. Under the second plan, the Sick Pay Act, the Government has called for voluntary restraints through collective bargaining with a view to preserving the ceiling on sick pay. However, the Government has threatened legislative action should unions and employers fail to observe the ceiling. A central difference between the two plans is that the Sick Pay Act calls for a ceiling on sick pay even where private employers, not the Government, must now pay for the first 14 days of coverage.

TCO asserts that the National Insurance Act violated the Conventions by, in effect, bypassing the contractual agreements already made with employers to pay supplements that provide up to 100 per cent of sick pay from the first day. TCO's subsequent communication of 12 October 1992 asserts that the legislative changes restrict the unions' rights to determine their own issues for negotiations and agreements.

In its reports, the Government rejects TCO's argument that the unions have traditionally had the right to bargain up to 100 per cent of sick pay. The Government indicates that such bargaining has always depended on the Government paying a substantial share of the costs. It points out that a recent court case determined that current contracts could not be assumed to provide 100 per cent coverage in the case of a reduction in the Government share of sick pay. It further provides testimony by officials about the need to cut costs and preserve equality by maintaining a sick pay ceiling. The Government indicates that its threats to mandate a new sick pay ceiling are "a perfectly legitimate political stratagem".

The Committee is not qualified to comment on whether contracts under the National Insurance Act provided a right to 100 per cent sick pay. As to contracts under the Sick Pay Act, while acknowledging the Government's action to preserve equality and to provide for individual safeguards in the operation of the pay system, the Committee notes the Government's threats to legislate a sick pay ceiling. The Committee recalls the importance attached to collective bargaining under Conventions Nos. 98 and 154. In the Committee's view, while not a violation of the Conventions, these threats amount to something more than mere persuasion. Accordingly, steps should be taken to persuade the parties to collective bargaining to have regard voluntarily in their negotiations to major economic and social policy considerations and the general interest invoked by the Government. (See General Survey on Freedom of Association and Collective Bargaining 1983, paragraph 318.)

The Committee asks the Government to keep it informed in the next report of any new collective bargaining agreements, legislation and court cases having a bearing on this matter.

Turkey (ratification: 1952)

The Committee has expressed for many years its concerns regarding legislative infringement of free collective bargaining, compulsory arbitration in cases of collective disputes other than those relating to essential services and denial of the right to bargain collectively to public servants.

The Committee notes that the Government makes no comment in its report on the issue of compulsory arbitration but indicates only that public employees such as teachers and banking employees will be provided the right and freedom to organize. In addition, the Committee regrets that despite the Government's statement to the Conference Committee in 1991 to the effect that it had introduced a Bill which envisaged lifting the 10 per cent minimum branch membership requirement for collective bargaining, the Government states in its current report that since the social partners are still opposing this amendment, it does not consider itself to be in a position to modify the law which provides for a double criteria of 10 per cent of the workers in a branch and more than half of the employees in a workplace for trade unions to be allowed to negotiate a collective agreement. The Committee can only point out once again that under Article 4 Governments should take measures appropriate to national conditions to encourage and promote the full development and utilization of voluntary negotiation by means of collective bargaining.

The Committee therefore recalls that the numerical requirements in article 12 of Act No. 2822 are not in accord with the principle of voluntary collective bargaining under the Convention, and requests that the Government indicate in its next report any measures taken or contemplated in relation to the three issues above to bring its legislation into conformity with the Convention.

Yemen (ratification: 1969)

The Committee notes with interest the Government's report and the information supplied by the Government representative to the Conference in June 1991, as well as the Constitution of Yemen of May 1991 and Act No. 19 of 1991 issuing the general conditions of service of the public service, which guarantee the right to organize of all citizens, including public servants.

It recalls that its previous comments concerned the following points:

- the absence of appropriate provisions to guarantee the protection of workers against any act of anti-union discrimination by employers, both at the time of recruitment and during employment, in accordance with Article 1 of the Convention;

- the absence of provisions to guarantee the protection of workers' organizations against acts of interference by employers, in accordance with Article 2;
- the absence of appropriate measures to encourage and promote the full development and utilization of machinery for the voluntary negotiation of collective agreements, in accordance with Article 4;
- the compulsory registration of a collective agreement and the possibility of its cancellation in the event of it not conforming to the security and economic interests of the country, which jeopardizes the application of Article 4 of the Convention under which collective bargaining must be free and cannot be the object of legal restrictions (sections 68, 69 and 71 of the Labour Code).

The Committee notes the assurances given by the Government that freedom of association is a basic right of each citizen and that it has undertaken to guarantee the respect and satisfactory application of the Convention through the enactment of new labour legislation which will take account of the comments of the Committee in the draft texts of the new Labour Code and a Bill respecting trade unions.

1. Articles 1 and 2 of the Convention. With a view to giving full effect to the Convention, the Committee, with reference to its previous comments, once again requests the Government to adopt by legislative means specific provisions to guarantee expressly the protection of workers against acts of anti-union discrimination and the protection of workers' organizations against acts of interference by employers or employers' organizations, accompanied by sufficiently effective and dissuasive sanctions, and to indicate in its next report the measures that have been taken in this respect.

2. Article 4. The Committee also recalls its opinion that, since the trade union movement is still at the stage of consolidation and the collective bargaining process has not yet been implemented, it is necessary to take measures to amend the legislation which is in force, and in particular sections 68, 69 and 71 of the Labour Code of 1970, which are contrary to Article 4, with a view to establishing the appropriate machinery for associating the social partners on a voluntary basis in the determination of the Government's economic and social policy.

The Committee reminds the Government that the Office is at its disposal for any assistance that it may need in the preparation of amendments to give effect to the Convention.

The Committee requests the Government to indicate any progress achieved in these fields in its next report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Antigua and Barbuda, Cameroon, Cape Verde, Finland, Guinea-Bissau, Iceland, Indonesia, Ireland, Lebanon, Rwanda, Saint Lucia, Sierra Leone, Sweden.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

Guinea (ratification: 1966)

See under Convention No. 26.

Hungary (ratification: 1969)

See under Convention No. 26.

Morocco (ratification: 1960)

The Committee notes the Government's report and the discussion that took place on the application of Convention No. 26 at the Conference Committee in 1992.

Article 2 of the Convention. The Committee refers to the comments made by the Democratic Confederation of Labour and the General Union of Moroccan Workers to the effect that supervision by the inspectorate of the payment of wages is weak and, as a result, the authorization of partial payment of wages in kind is leading to non-observance of the provisions on minimum wages. In this connection, the Government indicates that allowances in kind paid to agricultural workers are in addition to the minimum wage fixed by decree which must be paid in cash and are not taken into consideration in assessing the minimum wage. The Committee takes note of this information. It also notes that section 39 of the Dahir to promulgate Act No. 1-72-219 of 24 April 1973 requires the provisions on legal minimum wages to be observed, that section 42 provides that the prices of goods produced by the undertaking and supplied to the workers shall be arranged by agreement and that section 2 of Decree No. 2-89-247 of 28 April 1989, which is the most recent Decree on minimum wage adjustments in agriculture available at the Office fixes the amount of the part of the daily wage which must be paid in cash in agricultural jobs.

The Committee asks the Government to provide information on the application in practice of the above provisions indicating, for example, the violations recorded and sanctions imposed, and to provide copies of Decrees Nos. 2-50-345 of 15.05.1950, 2-91-33 of 23.01.1991, 2-92-316 of 04.05.1992 and of any text which has been adopted to increase minimum wages.

Article 3, paragraph 3. With regard to the matter of consultation of workers' organizations on minimum wage fixing, the Government indicates that the provisions of the laws and regulations that govern the fixing of the rate of increase of minimum wages in commerce, industry and the liberal professions also apply to the agricultural sector. The Committee takes note of this information and refers the Government to its comments on the application of Article 3, paragraph 2(1) and (2), of Convention No. 26. It also asks the Government to indicate whether the agricultural workers' unions are among the organizations consulted.

New Zealand (ratification: 1952)

See under Convention No. 26.

Turkey (ratification: 1970)

1. With reference to the previous comments, the Committee notes the Government's indication that since June 1989 minimum wages have been annually fixed to cover all sectors of the economy, including agriculture, by the Minimum Wage Fixing Board. It would be grateful if the Government would indicate the manner in which employers and workers in the agricultural sector are associated in the working of the Minimum Wage Fixing Board (Article 3, paragraph 3, of the Convention). The Committee also refers to the comments it is making under Convention No. 26, in which it has noted the observations made by the Turkish Confederation of Employers' Associations (TISK) concerning the application of Convention No. 26.

2. The Committee notes the Government's indication, in reply to the previous comments, that studies to draft a new Agricultural and Forestry Work Bill are being carried out and that the Bill will be submitted after consultation, inter alia, with social partners to the Grand National Assembly. The Committee requests the Government to continue supplying information on any development in this regard in so far as it concerns minimum wage fixing in the agricultural and forestry sector.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Austria, Colombia, Comoros, Gabon, Grenada, Hungary, Italy, Mauritius, Philippines, Seychelles, Sierra Leone.

Information supplied by Ireland and Senegal in answer to a direct request has been noted by the Committee.

Convention No. 100: Equal Remuneration, 1951

Argentina (ratification: 1956)

With reference to its previous comments, the Committee notes with interest the Government's statement in its report that collective agreement No. 109/75 for the tobacco industry has been replaced by agreement No. 175/91 (in which former section 17 on the remuneration of women is eliminated) and that agreement No. 25/75 for the clothing industry has been replaced by agreement No. 132/90 (in which no differences are provided for in basic wages nor between the jobs carried out by men and women workers). The Committee requests the Government to supply a copy of the above collective agreements and of any agreements applying to sectors, other than the tobacco and clothing industries, in which women workers are concentrated.

Australia (ratification: 1974)

The Committee notes from the information supplied by the Government in reply to its previous observation that the New South Wales Arbitration Act has not been amended to remove the provisions for setting the male and female basic wages, although a Bill providing a non-discriminatory basic wage is now before Parliament. It hopes that the above-mentioned Act will be amended in order to give full effect to the Convention and that a copy of the amendment will be supplied with the next report.

Austria (ratification: 1953)

With reference to its previous comments, the Committee notes the detailed information supplied by the Government in its report and the attached documentation. It also notes the observations provided by the Trade Union of Food Industry, Agricultural and Forestry Workers and the Austrian Congress of Chambers of Labour, communicated with the report.

1. The Committee notes with interest that in response to the initiatives of the Equal Treatment Committee, the remaining discriminatory clauses contained in a few collective agreements in the food and allied industries have been removed, by aligning the rights of women with those of men as regards travel allowances, family allowances and widows' pensions. The Committee also notes that the separate wage rates for men and women are no longer contained in most of the collective agreements in this sector and that newly negotiated wage categories do not specify the worker's sex. It notes, however, that the Trade Union of Food Industry, Agricultural and Forestry Workers has indicated that the only collective agreement containing different categories of remuneration for work of equal value is that for the confectionery industry, which employs a significant number of women workers (70 per cent). This union calls for long-term strategy in wage negotiations to increase women's earnings proportionately more than those of men in order to achieve equal remuneration. The Committee requests the Government to provide information on the progress achieved in eliminating the remaining discriminatory provisions in collective agreements, in particular if there are any still establishing separate wage rates for men and women in the food and allied industries, including confectionery, and on further action taken by the Equal Treatment Committee in that respect.

2. The Committee notes with interest the amendment to the Equality of Treatment Act by Federal Act of 27 June 1990, which amends section 2(2) so as to stipulate that the equality of treatment requirement must be observed in the fixing of remuneration under collective bargaining agreements so that such agreements should not provide for criteria for the evaluation of women's and men's work in such a way as to lead to discrimination. The Committee also notes with interest the amendment on 21 February 1991 of the Lower Austria Agricultural Labour Order, 1973, which provides that collective agreements may not establish discriminatory criteria for the evaluation of women's and men's work (section 240(2)). It requests

the Government to indicate what measures have been taken or contemplated during the renegotiation of collective agreements so as to implement the principle of equal remuneration for work of equal value in accordance with the provisions of the amended Equality of Treatment Act and the Agricultural Labour Order. In this connection, the Committee also notes with interest that the Equal Treatment Committee has decided to establish a working party to determine whether job classification descriptions and evaluation criteria for individual wage groups contained in collective agreements are such that, if these agreements are correctly applied, they preclude discrimination based on sex. It asks the Government to supply information on the findings of this working party with regard to promoting the use of objective appraisal of jobs on the basis of work to be performed in the various economic sectors.

3. The Committee notes the Government's indication that there is no legal procedure which empowers a court or administrative authority to declare null and void clauses of collective agreements which are found to be contrary to the principle of equal remuneration under section 2 of the Equality of Treatment Act, and that an aggrieved person must bring an individual complaint and such a clause will be declared invalid in regard to that person only. The Committee asks the Government to provide information on any recent cases in which the Equal Treatment Committee or a labour tribunal found a clause in a collective agreement to be discriminatory with regard to remuneration, rendering the discriminatory clause null and void in respect of the individual worker concerned. In addition, given that the 1990 amendment to section 2(2) (referred to above) requires collective bargaining agreements not to include criteria for the evaluation of men's and women's work in such a way as to lead to discrimination, the Committee asks the Government to indicate in its next report the effect of new section 2(2) on discriminatory clauses in such agreements.

4. The Committee notes the comment of the Austrian Congress of Chambers of Labour that there should be statutory penalties against employers and entitlements to compensation for aggrieved persons when wage discrimination based on sex has occurred. Noting the enforcement procedure laid down in section 6 of the Equality of Treatment Act, the Committee asks the Government to indicate how labour court rulings can be effectively enforced against non-complying employers in cases of proven wage discrimination on the basis of sex, and to describe what other sanctions, such as fines, are available when the Equality of Treatment Act has been breached in cases of discrimination in the fixing of remuneration.

5. The Committee is addressing a request on further matters directly to the Government.

Barbados (ratification: 1974)

The Committee notes the information provided in the Government's report.

In observations made since 1984, the Committee has referred to differentials in the wages paid to men and women in the sugar industry. It has recalled that the Sugar Workers (Minimum Wage) Order, 1982, which set minimum hourly wages for 1983, fixed in factories a rate of $3.23 for "General Workers, male", and a rate of $2.68 for "General Workers, female". This Order was replaced by a collective agreement fixing minimum rates of pay for 1984-85, which increased the wage rates but maintaining the corresponding differential rates for men and women set by the 1982 Order, although explicit reference to the sex of the worker had been removed. Thus the agreement fixed, in factories, a minimum hourly wage of $3.63 for "General Workers 'A' Class" and a wage of $3.02 for "General Workers 'C' Class", without any description of their jobs. The Committee had also noted that the 1982 Order fixed, for 1983, minimum hourly rates for four distinct categories of workers employed in plantations and estates: "Men, 'A' Class", "Men, 'B' Class", "Women, 'A' Class" and "Women, 'B' Class". These differences were faithfully reflected in the increased rates set for 1984 and 1985 by the above-mentioned agreement which distinguished four categories of sugar workers (without mention of sex) over 18 years of age by reference not to the work actually performed when employed on time work but, in the case of the three higher-paid categories, by reference to tasks they are required to perform when employed on piece-rates. The Committee had further noted that, for the years between 1984 and 1991, the wage rates continued to distinguish between "General Worker 'A' Class", "General Worker 'C' Class," "Artisans 'A' Class" and "Artisans 'B' Class". In addition, rates continued to be set for four categories of sugar workers over 18 years of age, without explicit descriptions of the corresponding jobs.

The Committee had requested the Government to provide full information on the numbers of men and women employed in the various wage categories and to furnish any job descriptions adopted for those wage categories which did not indicate the jobs actually performed. It had also requested the Government to supply information on the measures taken, either alone or in cooperation with the social partners, to ensure the application of the principle of equal remuneration for work of equal value to men and women in the sugar industry and on the methods used to evaluate and classify jobs in the industry.

In its latest report, the Government states that it is not the practice to use gender as a basis for determining rates of remuneration in the country; and that jobs are analysed and rates of pay are determined on the basis of such criteria as the time spent on the job, the skills and qualifications required and job evaluation with the guidance of the ILO Standard Occupational Classification and the Barbados Standard Occupational Classification. The Government adds that the difference in pay between men and women in the sugar industry is based only on nomenclature and that, at the request of the Government, the parties to the 1983 collective agreement changed the relevant titles and reflected this change by stating in the agreement that "where men and women perform identical duties, they will receive equal pay". The Government also states that the question of vague job descriptions for general workers is expected to be addressed shortly when new management takes over the sugar industry.

The Committee takes due note of these indications. However, as the Committee has stated previously, the sex-differentiated job categories and wage rates established in the 1982 Order have evidently been maintained in the collective agreements concluded since that time, despite the removal of the references to sex in the classification of posts. Information which would suggest otherwise has not been made available. The repeated requests of the Committee have not elicited information either on the respective numbers of men and women occupying the relevant posts or on any measures taken to evaluate and re-classify those jobs, using non-discriminatory criteria. Moreover, the principle of equal pay proclaimed in the 1984-85 agreement for the sugar industry, merely covers equal remuneration for persons performing "equal work" (which is apparently tantamount to having identical duties), but falls short of the principle of the Convention, under which men and women shall be paid equal remuneration for work of equal value, implying a comparative evaluation of work of a different nature.

The Committee has also noted that no information has been provided on the other matters raised by the Committee in its previous observations, i.e. the progress of the Employment and Related Provisions Bill, which was to embody the principle of equal remuneration in terms similar to those of the Convention and measures taken to apply the Convention in practice, and in particular to monitor its implementation.

In these circumstances, the Committee again expresses the hope that the Government will take measures, in cooperation with the social partners, to ensure that the principle of the Convention is applied in full. In this regard, it urges the Government to consider the possibility of embodying the principle of equal remuneration for work of equal value in legislation applicable to all workers. It also hopes that strenuous efforts will be made to respond to the Committee's concerns in regard to the application of the principle in the sugar industry. The Committee again requests the Government to supply, in its next report, full and detailed information on any job descriptions adopted for those wage categories which do not indicate the work actually performed and on the methods used to evaluate and classify posts in this industry. Having taken account of the evident difficulties being faced in the application of the Convention, the Committee recalls its 1990 general observation, where it invited governments to consider the possibility of requesting advice and technical cooperation from the International Labour Office.

Germany (ratification: 1956)

In its previous observations, the Committee had referred to wage groups for "light work", which had their origin in former female wage categories. The Committee notes the Government's indication that the Federal Labour Court's decisions (4/AZR 707 and 4/AZR 713/87 of 27 April 1988, already noted by the Committee) defining the term "light physical work" to include not only the criterion of muscle demand but also other factors (such as the requirements of standing or maintaining certain positions, repetitive work, nervous strain and noise or the pulse rate of work) and concluding that the difficulty inherent in one and the same job should be calculated according to the respective strength of the man or woman performing the job, are steps towards the improvement of job classifications and equality in the remuneration of women workers. It also notes that the Government's Eighth Report to the Federal Diet on the application of the principle of equal remuneration, under article 119 of the EEC Treaty, defines "wage groups for light work" as wage groups set out in collective agreements for physically light, unskilled (lower grade) work.

Noting the Government's statement that employers' and workers' organizations are familiar with the 1988 court decisions, but also that 21 collective agreements still contain "wage groups for light work" and that, while the social partners ought to make greater efforts to eliminate such potentially discriminatory categorizations, the Government cannot intervene directly in the contents of freely concluded collective agreements in the private sector, the Committee trusts that the Government will appeal to the social partners, in accordance with Article 4 of the Convention, to take account of the decisions of the Federal Labour Court when renegotiating the 21 collective agreements in question so as to eliminate those remaining "wage groups for light work" which are based exclusively on physical effort. The Committee requests the Government to provide copies of any of these agreements which have been renegotiated and any recent court decisions concerning this issue.

India (ratification: 1959)

The Committee notes the information provided by the Government in its reports.

For a number of years, the Committee has drawn attention to the need to improve the enforcement of the provisions of the Equal Remuneration Act, 1976, as there appeared to be numerous cases in which women received lower wages than men for equal work or for work of equal value. It had also observed that the scope of the principle of equal remuneration under the Act was more limited than the principle of the Convention, as it covered only men and women performing the same work or work of a similar nature for the same employer.

In its observation of 1991, the Committee had noted with interest certain amendments to the Equal Remuneration Act designed to increase its effectiveness. It had also noted the measures taken to strengthen the supervision of the legislation and the substantial increase in the number of prosecutions launched under the Act. In addition, it had noted the Government's statement that the introduction of the concept of equal pay for work of equal value may not be possible at the present stage of development and that priority should be given instead to the full implementation of the provisions of the Equal Remuneration Act. The Committee had also referred to a communication received from the Centre of Indian Trade Unions (CITU) stating that there remained many shortcomings in the implementation of the Equal Remuneration Act. In particular, the CITU had stated that in certain industries, employers used a piece-rate system to avoid paying equal wages for women or they claimed that the work performed by women was of a different nature to that performed by men, whereas the nature of the work was the same or similar, and this explained why women workers in beedi, construction, garment, agriculture and other industries continued to receive lower wages than male workers. As concerns these claims, the Committee had referred to a number of studies undertaken by the Labour Bureau (Ministry of Labour, Government of India) on the socio-economic conditions of women workers in various industries, which confirmed that the provisions of the Equal Remuneration Act were circumvented frequently by employers. Accordingly, the Committee expressed the hope that the Government would draw the attention of the competent state authorities to such situations as those revealed in the studies, in order to correct them in accordance with the requirements of the national legislation and of the Convention.

The Committee has noted with interest that the sex-differentiated minimum wage rates fixed for agricultural workers in Kerala will be amended on the occasion of the next minimum wage revision, and that a copy of the notification will be forwarded when it is available. The Committee has noted the explanations provided by the Government concerning the fixing of minimum wage rates for time-work or piece-work and the procedures observed to enforce the provisions of the Minimum Wages Act, 1948, whenever cases of wage discrimination arise. It requests the Government to provide, in its next report, detailed information on the action taken to rectify the instances of wage discrimination identified in the studies undertaken by the Labour Bureau. In relation to the fixing of minimum wage rates for piece-work, the Committee requests the Government to indicate the proportion of men and women in particular industries such as beedi, construction, garment and agriculture, or in occupations within those industries, for whom piece-rate wages are fixed and to provide information separately for men and for women on the average wages received by those piece-rate workers as compared to time-rate workers.

As concerns measures to better publicize the provisions of the Equal Remuneration Act, the Comittee has noted with interest that the tripartite Central Board for Workers' Education trained 91,920 women workers during the period 1990-91 and 50,604 during 1991; that legal literacy manuals have been developed by the Department of Women and Child Development; and that the Ministry of Labour introduced two new projects aimed at organizing women in construction industries to upgrade their skills, improve their conditions of work, give them functional literacy and to provide them with support services. In addition, schemes for providing child care have been drawn up and included under the 8th Five Year Plan (1992-97) with a view to promoting the employment and improving the working conditions of women in the organized sector.

In respect of measures to strengthen the enforcement machinery, the Committee has noted with interest that a pilot scheme of providing financial assistance to state governments for enforcing legislation relating to women and children is to be extended, under the 8th Five Year Plan, to other states in need of such assistance. It has also noted, in this regard, that a process of active consultation has been initiated with workers' and employers' organizations at the central level to secure their support in improving implementation of the legislation. The Committee requests the Government to supply information on the particular significance of these measures in relation to the implementation of the Convention.

Noting that a number of state governments have extended recognition to welfare institutions or organizations for the purpose of filing complaints under the Equal Remuneration Act, the Committee requests the Government to indicate in its future reports, any further developments in this regard together with information on the specific role taken by these organizations to promote a better observance of the legislation.

Jamaica (ratification: 1975)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In its 1991 observation, the Committee had noted that the Minimum Wage (Printing Trade) Order, 1973, which had provided for sex-differentiated job categories and pay scales had been revoked by the Minimum Wage (Printing Trade) Order, 1989, which had set a single rate of pay for an unskilled worker. However, in other respects the Order had simply removed explicit reference to the sex of the worker from various other categories, while at the same time maintaining both the former definitions of those categories and differentials in the respective increased minimum rates which appeared to correspond to those laid down in the 1973 Order. In the absence of any indication that measures were taken either to evaluate and compare jobs in categories which were formerly sex-denominated by applying non-discriminatory criteria or to ensure that those jobs were open to both sexes, the Committee had been forced to conclude that the wage distinctions based on sex in the 1973 Order had been maintained in the 1989 Order, despite the introduction of neutral language. The Committee had requested the Government to supply detailed information on the measures taken, either alone or in cooperation with the social partners, to ensure the application of the principle of the Convention in the printing trade as well as in other industries, such as the garment-making trade, where the Committee had previously noted that distinctions based on sex had apparently played a role in establishing differential minimum wage rates.
>
> At the Conference Committee in 1991, the representative of the Government stated that the tripartite Minimum Wage Advisory Commission would review the Minimum Wage Orders for the printing and garment industries before the end of 1991 and, in doing so, would take account of the Committee's comments regarding the application of the Convention. He assured the Committee that a comprehensive report, as well as copies of the new Orders, would be furnished as soon as this work had been completed.
>
> The Committee notes that no further reference is made in the report of the Government to the review of the above-mentioned Orders. The Committee trusts that the Government will indicate,

in the near future, that it has taken the necessary action to ensure conformity with the provisions of the Convention.

2. In its previous direct request, the Committee had pointed out that section 2 of the Employment (Equal Pay for Men and Women) Act, 1975, only refers to "similar" or "substantially similar" job requirements, whereas the Convention provides for equal remuneration for work of "equal value", even of a different nature. The Committee notes that the Government has provided no information on the measures taken or envisaged to re-examine national legislation in the light of the requirements of the Convention. The Committee trusts that full information will be provided in this regard in the next report.

3. In its previous comments, the Committee had noted that minimum wage orders generally exclude any ancillary benefits from their scope, while the Convention, as well as the above-mentioned Act include in their scope any additional emoluments whatsoever payable in cash or in kind to the worker in respect of work or services performed. The Committee had therefore requested the Government to indicate how, in practice, equal remuneration is implemented with respect to benefits such as housing, marriage or family allowances, in both the private and public sectors. The Committee notes the statement of the Government in its report that there is equal remuneration in both the private and public sectors with respect to the benefits paid or granted in addition to salary.

The Committee, however, notes from the Government's report that while the payment of marriage allowances was discontinued during the 1970s, teachers who were receiving the allowance prior to its discontinuation have continued to receive it. Male teachers who fall into this category receive an allowance of $2,400 per annum.

The Committee points out that the continuing payment of marriage allowances to, it would appear, only male teachers who had entitlement to them prior to their discontinuation is contrary to the provisions of the Convention. It therefore requests the Government to ensure that those female teachers who were also employed prior to the date of discontinuance of the allowance but who were denied it on account of their sex are also granted a marriage allowance.

More generally, the Committee requests the Government to take the necessary steps to ensure that minimum wage orders and any regulations fixing wages for the public sector cover not only cash minimum wages but also any additional emoluments payable in cash or in kind.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Japan (ratification: 1967)

1. In its 1992 observation, the Committee had noted from a 1988 survey that while there had been a narrowing in wage differences in the starting salaries of male and female graduates of high schools and

universities, women's average monthly cash earnings were about 60.5 per cent of those of men. From the information supplied in the reports of the Government, the Committee had observed that two primary reasons appeared to account for the persistence of an important wage differential in average earnings and for the widening of the wage differential in relation to the age of women workers: the first being the seniority wage system, under which the employee's pay rises with the length of service in the same enterprise; and secondly, the fact that women are concentrated in lower paid jobs and are not accorded equal employment opportunities, as shown by a survey in which only 23 per cent of enterprises stated that they assign females to all jobs while the others stated that they assign them to jobs "where they can display their characteristics and sensitivity as females", or where "they can make the best use of their special skills" or to "subsidiary jobs" only.

2. The Committee requested the Government to indicate any progress made towards a wage system based on job content and the measures taken or envisaged to ensure that jobs performed mainly by women are not given a lower value, on account of subjective judgements based on traditional notions concerning the respective qualities of men and women. It had also drawn attention to the desirability of taking measures to ensure that inequalities in recruitment, assignment and promotion, which appear to be somewhat responsible for the maintenance of the wage gap, are remedied.

3. In its last report, the Government states that its basic policy is to give effect in a strict way to the provisions of the ILO Conventions that it has ratified; and that it is doing its utmost to secure compliance with the requirements of Convention No. 100. In the view of the Government, the Committee's observation of 1992 did not recognize accurately the systems and actual situation in the country, and covered the whole issue of the differential in average wages between men and women, going beyond the matters dealt with in the Convention. The Government considers that in respect of this Convention, the Committee should limit its judgement to the issue of equal remuneration for work of equal value and that it should leave other issues, such as securing equal employment opportunities, to be taken up at another occasion.

4. The Committee takes note of this statement. It appreciates the Government's commitment to implementing the Convention, as evidenced by its sustained efforts to maintain a dialogue on the matter. In this regard, the Committee recalls its 1990 general observation, where it observed that most ratifying countries experience serious difficulties in applying the main requirement of the Convention.

5. In determining the application of the Convention, the Committee has been concerned to elicit information on the wages received by men and women and the wage differentials between men and women, as such data may indicate the existence of problems, thus providing a basis for further studies and measures to implement better the principle of the Convention.

6. The Committee has also sought information on the means used to apply the principle of equal remuneration for work of equal value. In its previous observation, the Committee had not suggested that the

seniority wage system be discontinued. It had reflected a statement of the Government indicating that a change from a seniority wage system to one based on job content should promote the principle of equal remuneration for men and women. Consequently the Committee had requested information on the extent to which an objective appraisal of jobs - within the meaning of Article 3 of the Convention - might be introduced in the context of the seniority wage system, so that the value of the different jobs undertaken by men and women may be compared in terms of their actual content or requirements. The Committee had pointed out in this regard that such comparisons should use non-discriminatory criteria, to ensure that the jobs performed mainly by women are not ascribed a lower value than those performed by men.

7. The Committee notes the Government's statement that there is no national consensus that jobs performed mainly by women (as for example, nursing) are given an unreasonably lower value in terms of their content than jobs performed mainly by men, on account of subjective value judgements based on traditional notions concerning the respective qualities of men and women. Consequently, no measures are being taken or contemplated from such a viewpoint. The Committee has, however, noted with interest that the Government has been providing counselling and assistance to enterprises which plan to improve the seniority wage system into a wage system based on job content, though information is not available showing the extent of progress because of changes in the method of statistical surveys.

8. The Committee requests the Government to supply, in its next report, detailed information on the minimum or basic wage rates and the average actual earnings of men and women employed in different sectors or occupations (including those where one sex predominates) broken down by seniority and skill level, as well as information on the percentage of women and men employed in these different sectors or occupations. The Committee would also be grateful if the Government would continue to supply information on the measures taken to advise enterprises on the introduction of a wage system based on wage content, including information on the criteria used to compare and classify the jobs performed by men and women.

9. Regarding the relevance to the Convention of measures to promote employment opportunities for women, the Committee has pointed out consistently that a comprehensive approach concerning equality of opportunity and treatment in employment and occupation is of particular importance for the application of this Convention. As it observed in paragraph 252 of its 1986 General Survey on Equal Remuneration, the equal evaluation of work and equal rights to all of the components of remuneration cannot be achieved in a general context of inequality. In this regard, the Committee notes the Government's statement that it is necessary to continue studying measures to further the aim of the Equal Employment Opportunity Law, 1985. The Committee requests the Government to indicate the measures which are taken or contemplated to encourage employers to give equal opportunities to women in recruitment, hiring, assignment and promotion, as employers do not have the obligation to do so under the Equal Employment Opportunity Law, 1985.

10. The Committee has noted that, in response to its suggestion of awarding seniority credits to women who have interrupted their careers to meet family responsibilities, the Government has referred to the provisions of the 1992 Law concerning child-care leave, which enables workers to take leave without resigning. The Committee requests the Government to indicate whether, in the case where a woman does take leave for family reasons under the Law, she is re-employed at the same seniority level to which she would have been entitled had she not interrupted her employment.

Morocco (ratification: 1979)

Referring to its previous observation, the Committee notes the information supplied by the Government in its report, in particular on the points raised by the Democratic Confederation of Labour (CDT) and the General Union of Moroccan Workers (UGTM).

According to the CDT and the UGTM, indirect discrimination exists against women in the public service since promotion and appointment to positions of responsibility are based on grounds of sex, which deprives a number of women of responsibility allowances. There are no statistics on wage levels and allowances by sector, which means that it is not possible to verify whether the Government is effectively applying the Convention. There is no form of collaboration between the Government and the occupational organizations by general bargaining to conclude collective agreements, and this is contrary to Article 4 of the Convention. In the private sector, particularly in agriculture and traditional industries, discrimination exists in respect of remuneration between men and women workers, which is contrary to the law, due to the weakness of supervision and inspection.

In reply to these comments, the Government states that there is no discrimination based on sex between public servants regarding the granting of benefits and allowances set by the public service law, nor in appointment to posts of responsibility; that a survey on wages and working time is in its final stage and its results will allow a better understanding of the situation and wage levels in the private sector; that collaboration with employers' and workers' organizations is ensured through tripartite bodies which cover labour, employment and social benefit questions; and that the principle of equal remuneration for male and female employees is applied strictly and that no cases of discrimination in remuneration or complaints have been reported by the labour inspectors.

The Committee takes note of this information and requests the Government to communicate in its next report information allowing it to evaluate how the principle of equal remuneration for work of equal value is applied in the public service, supplying in particular the wage scales currently applicable and indicating through statistics the ratio of men and women at the differenct levels and posts of responsibility.

As for the private sector, the Committee hopes that the Government will be able to supply in its next report the results of the wages and working time survey currently under way and that it will provide up-to-date statistical data on the minimum wage and average actual wages of men and women, if possible by occupation, branch of activity, seniority and level of qualifications.

Saudi Arabia (ratification: 1978)

In the comments it has been making for many years on the application of the Convention, the Committee has noted that no national legislation exists to give effect to the Convention and that, in the absence of statistical data, it has not been in a position to evaluate how the Convention is being applied in practice.

1. The Committee notes that, according to the Government's report, there has been no new legislative measure adopted concerning the application of the Convention. The Government states again that the Labour Code does not authorize discrimination in remuneration between workers for equal work and in equal working conditions since its section 8 requires the subcontractor to provide workers in his service with the same rights as those given by the initial employer. It mentions a decision of the Higher Commission for the Settlement of Disputes according to which a worker can claim equal treatment as compared to colleagues only when circumstances and qualifications are equal.

The Committee recalls that by virtue of the provisions of Article 2 of the Convention the Government has committed itself to promoting and, where necessary, ensuring the application of the principle of the Convention by means of national laws, legally established or recognized machinery for wage determination, collective agreements or a combination of these various methods. To date, none of these measures appears to have been used to apply the Convention in the private sector. The Committee therefore hopes that the Government will take appropriate measures, for example by inserting a specific clause in the Labour Code concerning equal remuneration between men and women for work of equal value or through a decision of the Higher Commission for the Settlement of Disputes specifically on this issue, so as to impose expressly on employers in the private sector the obligation to apply the principle contained in the Convention. It hopes that the next report will indicate progress made in this direction.

2. The Committee notes the Government's statement that it still does not have statistics concerning wage levels and average income of men and women in the private sector. In this respect, the Committee refers to paragraph 248 of its 1986 General Survey on Equal Remuneration and its 1990 general observation, in which it stresses the importance of having adequate statistical data so as to have a clear indication of the nature and extent of inequalities and to elaborate measures to overcome them. The Committee reiterates its hope that the Government will take the necessary measures, perhaps using the technical assistance of the Office, to collect statistical data concerning wage levels and average income of men and women in the private sector, broken down if possible by profession, branch of activity and level of qualifications, and that it will be able to provide this information in its next report.

3. With regard to the public service, the Committee notes that the Government repeats its description of the classification of jobs established by the Public Service Council and repeats its statement that the principle of the Convention is applied in practice. The Committee is pursuing this question in an observation under Convention No. 111.

United Kingdom (ratification: 1971)

The Committee takes note of the comments of the Trades Union Congress (TUC) dated 13 January 1993 concerning the application of the Convention, which have been transmitted to the Government. The Committee hopes that the Government will provide its comments on this communication so that the Committee will be in a position to examine the points raised at its next session.

It notes at the same time that earlier TUC comments, dated December 1991, are still awaiting a reply from the Government and that the outstanding observation on the application of this Convention, for which a government report will be requested for examination at the Committee's 1994 Session, concerned the following points: equal remuneration in the state pension scheme and occupational pension schemes and harmonization of pensionable ages; what government measures have been taken to respond to the proposals of the Equal Opportunities Commission (EOC) following its review of the Equal Pay Act of 1970; and statistical data illustrating current trends in the evolution of wage differentials between male and female earnings.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Argentina, Australia, Austria, Bolivia, Burkina Faso, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Comoros, Costa Rica, Dominica, Equatorial Guinea, Germany, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, India, Islamic Republic of Iran, Israel, Jamaica, Jordan, Lebanon, Luxembourg, Madagascar, Malawi, Mali, Morocco, Mozambique, Nicaragua, Nigeria, Panama, Portugal, Saint Lucia, Sao Tome and Principe, Senegal, Sierra Leone, Sudan, Swaziland, Sweden, Uruguay, Yemen, Zaire, Zambia.

Convention No. 101: Holidays with Pay (Agriculture), 1952

Requests regarding certain points are being addressed directly to the following States: Ecuador, Sierra Leone.

Convention No. 102: Social Security (Minimum Standards), 1952

Bolivia (ratification: 1977)

The Committee notes that the Government's report does not contain a reply to its previous comments. It however notes from the information provided by the Government in the report concerning Convention No. 118 as also from section 51 of Supreme Decree No. 22-578 of 13 August 1990, that the Bolivian social security scheme no longer provides for the payment of family allowances as contemplated under Article 42, Part VII (Family benefit) of the Convention. In these conditions, the Committee can but express the hope that the Government will take the necessary measures with a view to re-establishing a scheme of family benefits which complies with Part VII of the Convention. It recalls in this respect that the draft Social Security Code prepared with the assistance of the Office to which the Government referred in its previous reports, provides in section 89 for the payment of such family benefits. The Committee hopes that the Government will furnish detailed information on the progress made in this field.

Costa Rica (ratification: 1972)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. With reference to its previous comments in connection with the representation made by a number of trade union organizations of Costa Rica in 1984 under article 24 of the ILO Constitution alleging in particular non-payment to the Banco Popular and the Costa Rican Social Security Fund of the employers' contributions due from the State (Article 71, paragraph 2, of the Convention) and non-revaluation of pensions (Article 65, paragraph 10, and Article 66, paragraph 8), the Committee notes with interest that the Government discharged its obligations to the sickness and maternity insurance schemes by means of bonds in 1988 and in 1989. It also notes that the agreement concluded between the Ministry of Finance and the Costa Rican Social Security Fund on 7 December 1988 has been carried out in full. It would again be grateful if the Government could supply information on the progress made in the reform of the medical care financing system provided for in the above agreement.
>
> With regard to the review of pensions, the Committee points out that it has always attached importance to this question; in this connection it refers to the general observations it made in 1989 relating to Conventions Nos. 102 and 128, in which the Committee considers, in particular, that, given the effects of inflation on the general level of incomes and the trend in the cost of living, governments should consider reviewing long-term benefits, especially in the general economic climate of today. The Committee consequently asks the Government to do everything possible to continue to apply the aforementioned Article 65,

paragraph 10, and Article 66, paragraph 8, of the Convention and to supply in its future report the statistical information requested for these Articles of the Convention, conforming to the report form adopted by the Governing Body under Article 65, Title VI.

2. Part VI (Employment injury benefit), Articles 34, 36 and 38 of the Convention (also in conjunction with Article 69). In its previous comments, the Committee requested the Government to take the necessary measures to amend sections 218, 228 to 232, 237 to 239 and 243 of Act No. 6727 of 1982 in order to bring them all into full conformity with the above-mentioned provisions of the Convention concerning: (a) the nature of medical care, which must correspond to the provisions of Article 34 of the Convention and be provided free of charge throughout the contingency (namely, until recovery or the stabilization of the person's invalidity); (b) the grant of cash benefits, also throughout the contingency, in the event of a minor or partial permanent disability and in the event of death. Under the above-mentioned sections of Act No. 6727, such benefits are, in both cases, paid for a period of five or ten years depending on the circumstances, whereas the Convention stipulates that they must be provided throughout the contingency (that is to say, to the victims for their life and to their dependants for as long as they fulfil the conditions prescribed under national law).

In a previous report, the Government indicated that with regard to medical care it was considering, through the Costa Rican Social Security Fund, how it could regulate the matter in conformity with the provisions of the Convention, and that it had referred the question of the amendment of section 237 to the National Insurance Institute, the body responsible for such matters. As regards cash benefits, the Government indicated that a commission composed of representatives of the Ministry of Labour, the Costa Rican Social Security Fund and the National Insurance Institute was considering the question of bringing Act No. 6727 into conformity with the Convention. Furthermore the amendments proposed, particularly those to sections 218, 228, 232, 237, 238, 239 and 243 of the above-mentioned Act, were to be studied in depth by a subcommission which was to submit a report on the matter to the Technical Committee responsible for drafting the new Labour Code. Since there is no information on the subject in the latest report either, the Committee again expresses the hope that those reforms can be carried out in the very near future and that they will bring the national law into full conformity with the Convention. It asks the Government to report on progress made in the above reforms.

In view of the importance of this problem, the Committee ventures to suggest to the Government that it might request the technical advice of the ILO with a view to overcoming this difficulty of application in the near future.

In addition the Committee would like the Government to supply detailed information on the questions raised in a direct request.

Denmark (ratification: 1962)

Part VI (Employment injury benefit), Article 38 (in conjunction with Article 69(e) and (f) of the Convention). The Committee notes the adoption of Act No. 390 of 20 May 1992 on insurance against the consequences of industrial injuries which, according to the information supplied by the Government, replaces as of 1 January 1993 the Act on Industrial Injuries, No. 450 of 25 June 1987, in its consolidated version, as subsequently amended. The Committee notes with satisfaction that, under section 29 of Act No. 390 of 20 May 1992, benefit for loss of earning capacity or for permanent incapacity may henceforth only be reduced or entirely suspended if the injured person has intentionally, or by an unlawful act or omission, caused the injury or contributed to it in an important degree, which permits better application of the above provisions of the Convention.

Germany (ratification: 1958)

Part XIII (Common provisions), Article 69(i), of the Convention. In its previous comments concerning the suspension of unemployment benefit in the event of trade disputes, the Committee requested the Government to supply information on the manner in which sections 116 and 133, last subsection, of the Federal Employment Promotion Act are applied in practice and to provide copies of any rulings issued by the Neutrality Committee. It also requested the Government to supply any other comments relating to the communication transmitted by the German Confederation of Trade Unions (DGB), dated 19 March 1990. In its reply, the Government states that to its knowledge during the period covered by the report, no case under the above provisions has been reported. It adds that the Neutrality Committee has handed down no rulings in this respect. The Committee notes this information. It requests the Government to continue to supply information in its future reports on the manner in which the above provisions of the Act are applied in practice. It would also be grateful if the Government would supply the text of any ruling issued on the constitutionality of section 116 of the Employment Promotion Act.

Spain (ratification: 1988)

The Committee notes the Government's reply to its previous comments and the very detailed information and documentation supplied with the report for the period 1990-92. The Committee has also examined the various legislative texts which accompanied this report and notes the modifications made by the new legislation, particularly in the field of unemployment insurance. The Committee also notes the comments on the application of the Convention made by the General Union of Workers, which were transmitted with the above report, and notes the Government's observations on the points raised by the above trade union organization.

1. With regard to the matters which it raised in its previous comments, the Committee wishes to point out the following:

Part VI of the Convention (Employment injury benefit). (a) Article 34, paragraph 2. The Committee requested the Government to indicate by virtue of which laws and regulations, nursing care at home, dental supplies and eye glasses are provided free of charge to victims of employment injury, in accordance with paragraphs (c) and (e) of this provision of the Convention. In its reply, the Government refers to section 11(1) of Decree No. 2766 of 16 November 1967 which describes, in general terms, the nature of medical care provided to the victims of employment injuries. This care includes medical and surgical care, pharmaceutical products, and any diagnostic tests or therapeutic care considered necessary by the physicians. The above Decree also covers the provision and renewal of prosthetic appliances and surgical supplies, as well as plastic surgery in the event of a mutilation which has deformed their physical aspect, or made their reintegration into active life more difficult.

The Committee notes this information. It also notes the comments made on this point by the General Union of Workers to the effect that nursing care at home and certain dental supplies, such as prosthetic appliances, are not covered by the insurance scheme and are entirely at the expense of the persons concerned. The Committee therefore requests the Government to state whether the above care, as well as the supply of eye glasses, are included in the care mentioned in section 11 of the Decree of 1967 and provided free of charge and, if not, to take the necessary measures to give full effect to the Convention in this respect.

(b) Article 36 (in relation with Article 65, paragraph 10). In reply to the Committee's previous comments concerning the manner in which, in law and in practice, the readjustment is ensured of the pensions provided to the victims of employment injuries in the event of permanent incapacity, or to their survivors, in the event of their death, the Government states that this adjustment is provided for by the social security legislation and in particular by Act No. 26 of 31 July 1985. It adds that, following an agreement with the central trade union organizations in February 1990, pensions are adjusted annually on the basis of the consumer price index for the previous year. Furthermore, insured persons who are receiving long-term benefits are paid 14 monthly pensions per year. The Committee notes this information with interest. It also notes the comments made on this point by the General Union of Workers and hopes that the Government will continue to undertake - even beyond 1993, when the agreement with the central trade union organizations expires - the adjustment of long-term benefits taking into account in so far as possible increases corresponding to the real annual inflation rate. The Committee also hopes that the Government will supply detailed information on this matter, including statistics as requested in the report form adopted by the Governing Body on the application of the Convention.

2. The Committee also requests the Government to supply additional information on the following matters:

(a) Part IV of the Convention (Unemployment benefit), Articles 23 and 24. The Committee has examined the new legislation respecting unemployment which was supplied by the Government, namely Act No. 22 of 30 July 1992 respecting urgent measures to promote employment and protect against unemployment. It also notes the information supplied in the report concerning this Act and notes the comments made on the subject of the application of the Employment Policy Convention, 1964 (No. 122), by the General Union of Workers and the Trade Union Confederation of Workers' Commissions. The Committee notes that the above Act provides, among other measures, for stricter qualifying periods for entitlement to unemployment benefit (the qualifying period has been increased from six months to one year or to 360 days of contribution) while reducing the amount of the benefits. Similar changes also concern the conditions for the duration of the provision of the benefits, which varies between 120 days (for a contributory period of from 360 to 539 days) and 720 days (for a contributory period of at least 2,160 days). The Committee also notes that the new legislation has made a number of changes with regard to the definition of "suitable" employment, which it proposes to examine on the occasion of the Government's next report on the Unemployment Provision Convention, 1934 (No. 44), which has also been ratified by Spain. Although aware of the reasons which have led the Government to take additional urgent measures in the field of unemployment insurance, the Committee recalls that the Convention, although it does not determine the qualifying period, provides in Article 23 that unemployment benefit shall be secured at least to a person protected who has completed such qualifying period as may be considered necessary only to preclude abuse. The Committee hopes that the Government will re-examine the matter and that its next report will contain information on this subject.

(b) Part XIII (Common provisions), Article 72. In its comments on the application of the Convention, the General Union of Workers states that most of the contributions (more than 70 per cent) paid as insurance against employment injury are administered by employers' mutual benefit societies for employment injury, which are private bodies and do not allow the representatives of the protected persons to participate in their administration, contrary to the above provision of the Convention.

In the observations that it made concerning these comments, the Government states that the above mutual benefit societies, although they have the characteristics of private bodies, in fact administer public funds (made up only of employers' contributions) and are accordingly subject to the supervision carried out by the Ministry of Labour and Social Security over all public insurance institutions. This fact is confirmed, according to the Government, by the General Social Security Act of 1974 and by the General Regulations on the collaboration of the above mutual benefit societies in the management of the funds allocated to insurance schemes against employment injury (Royal Decree No. 1509 of 21 May 1976). The Government adds that the supervision of the above mutual benefit societies is entrusted by the Ministry of Labour to the General Secretariat for Social Security and that it is exercised by the various executive centres of the above institution.

The Committee notes these statements and the information supplied by the Government in its report to the effect that the persons protected participate in the administration of insurance schemes through national or provincial councils composed of representatives of the public administration, representatives of employers and of the trade union organizations concerned, despite the fact that the management of social security schemes is entrusted to a public institution regulated by Parliament.

The Committee hopes that representatives of the persons protected will also be able to participate in the administration of mutual benefit societies for employment accidents either directly, or through tripartite councils, as in the case of other public insurance institutions according to the information supplied by the Government.

Switzerland (ratification: 1977)

Part VI of the Convention (Employment injury benefit)

1. Article 38 (in conjunction with Article 69(f)). In its previous comments, the Committee raised the question of the compatibility with the Convention of section 37(2) and section 38(2) of the Federal Accident Insurance Act (LAA of 20 March 1981) which provide for the reduction of the cash benefits due to employment injury victims or their survivors (in the case of the latter, such benefits may even be refused) where the contingency has been caused by gross negligence on the part of the person concerned. Indeed, as the Committee has already emphasized, the suspension of benefits is only authorized under the terms of Article 69(f) of the Convention where the contingency has been caused by the wilful misconduct of the person concerned.

In its reply, the Government states that in the draft Federal Act on the general part of Swiss social insurance law, which was prepared by the Commission of the Council of the States on the basis of a draft elaborated by the Swiss Insurance Law Society and which is currently under examination, it is envisaged that the reduction of benefits in the event of gross negligence on the part of the person concerned will be eliminated. It adds, however, that the Federal Council has before it a number of priorities, including the tenth revision of the Old-Age and Survivors' Insurance Act, the revision of the Sickness Insurance Act and the Occupational Pensions Act, and the examination of the relationship between the compulsory basic pension scheme and the compulsory occupational pension scheme. In these circumstances, the Federal Council, although it generally approves the draft legislation proposed by the Commission of the Council of the States, wishes the work of revising the above Acts be completed before Parliament debates the new draft legislation. The Committee notes this information. In this context, the Committee also notes the comments made by the Swiss Federation of Trade Unions (USS) transmitted by the Government on 12 February 1993. According to the USS, the Federal Council issued an opinion with reservations concerning the above draft legislation and invited the Parliament to suspend its work. Although aware of the priorities facing the Government, the Committee once again hopes that the draft Federal Act on the general part of Swiss social insurance law will be adopted in the near future and that it will take fully into account the above provisions of the Convention, which have been the subject of the Committee's comments for many years. It would be grateful if the Government would supply information in its next report on any development in this respect.

2. Article 34, paragraphs 1 and 2. In reply to the Committee's previous comments concerning section 10(3) of the above-mentioned Federal Accident Insurance Act (which provides that the Federal Council may establish the conditions under which the insured person is entitled to care at home, and the extent to which such care is covered by the insurance), and to section 18 of the Ordinance of 20 December 1982 (which provides that the insurance covers only a part of the expenses resulting from care at home prescribed by a medical practitioner and provided by an authorized person), the Government states that this care consists in practice of nursing care and that in practice insurers cover the whole expense of such care. It adds that the fee agreement with the providers of such care, which was to establish the contribution payable by insured persons to the cost of care provided at home, has still not been concluded, mainly due to the absence of a central association representing nursing personnel, which makes it uncertain that section 70(1) of the above Ordinance is applied. According to the Government, the situation which prevails in practice in Switzerland is therefore in accordance with Article 34 of the Convention. The Committee notes this information. It therefore hopes that the Government will have no difficulty in setting out this practice in legislation by providing explicitly that there shall be no contribution by the victims of employment injuries to the cost of nursing care at home, in accordance with the Convention.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, a general direct request is being addressed to the States that have accepted Part IV (Unemployment Benefits) of the Convention.

Requests regarding certain points are also being addressed directly to the following States: Costa Rica, Denmark, France, Germany, Greece, Italy, Luxembourg, Netherlands, Peru, Spain, Switzerland, Turkey, United Kingdom, Venezuela.

Information supplied by Norway in answer to a direct request has been noted by the Committee.

Convention No. 103: Maternity Protection (Revised), 1952

Austria (ratification: 1969)

Article 6 of the Convention. (a) The Committee notes from the Government's report that it is as yet uncertain whether and when the draft amendment to the Maternity Protection Act will be approved so as to defer, for pregnant women, the termination of temporary employment contracts, the temporary nature of which is objectively unjustified until the commencement of the compulsory leave before confinement. It hopes that the Government will continue its efforts to amend the

Maternity Protection Act as well as the Agricultural Labour Act with a view to giving better effect in practice to this provision of the Convention, and requests the Government to indicate, in future reports, the progress made in this respect.

(b) In its previous observation, the Committee drew the Government's attention to the fact that the national legislation (sections 10 and 12 of the Maternity Protection Act and sections 102 and 103 of the Agricultural Labour Act), as well as the amendments to this legislation proposed by the Government, while providing certain guarantees against abusive dismissal, are not sufficient to give effect to Article 6 of the Convention. In reply, the Government refers to the recent ruling of the Supreme Court of 28.8.1991 (9 Ob A 178/91) to the effect that the protection against unfair dismissal provided for by the Maternity Protection Act not only prohibits the employer from terminating the employment relationship during the period of protection defined in section 10(1) of the Act, but further signifies that during this period a notice of dismissal is legally inoperative even if the date of dismissal falls outside the period of protection. The purpose of the legal protection is to protect the future mother from all anxiety concerning her means of livelihood. A conversion of a premature, and therefore legally inoperative, notice of dismissal into advance notice automatically effective at a later date is without any legal foundation. In this connection the Government stated that the above-mentioned draft amendment to the Maternity Protection Act expressly refers to the fact that the provision to be introduced into its section 10 is intended to prevent notice of dismissal during the protected period and during the period immediately following it. In the opinion of the Government this would appear to bring section 10 into line with Article 6 of the Convention. The Committee notes this information with interest. It hopes that the necessary legislative measures will be taken soon to amend sections 10 and 12 of the Maternity Protection Act and sections 102 and 103 of the Agricultural Labour Act, in accordance with Article 6 of the Convention which prohibits the employer from giving a woman notice of dismissal during her absence on maternity leave or at such a time that the notice would expire during such absence.

Bolivia (ratification: 1973)

The Committee notes the information supplied by the Government in reply to its previous comments and wishes to draw the Government's attention to the following points:

Article 1 of the Convention. The Committee notes that the examination of the new draft Social Security Code, which was to extend the scope of maternity protection to certain categories of workers previously not protected (including workers in domestic service and rural workers), has been deferred by the parliamentary commissions due to the amendments which are to be introduced in relation with the reform of Bolivian social security which is currently under examination. It once again hopes that the appropriate measures will be adopted in the near future, both in law and practice, to ensure that the above categories of women workers benefit from the protection set out in the Convention. It requests the Government to supply information on any progress achieved in this respect.

Article 3, paragraph 2. In its previous comments, the Committee noted that section 61 of the General Labour Act, and Presidential Decree No. 2291 of 7 December 1950, provide for maternity leave of 60 days whereas, according to this provision of the Convention, the minimum period of maternity leave is 12 weeks. In its report, the Government indicates that insured persons in both the private and public sectors are entitled to leave of 45 days before and 45 days after confinement under the social security legislation. It adds that the Social Security Code of 1956 goes further than Presidential Decree No. 2291 of 7 December 1950. The Committee recalls in this connection that the provisions of the Social Security Code, which is still not applied to certain categories of women workers, provide for the entitlement of women workers to benefits during their maternity leave under certain conditions, whereas the General Labour Act and Presidential Decree No. 2291 deal with the right to maternity leave. The Committee once again hopes that, in order to prevent any ambiguity, the Government will formally amend section 61 of the General Labour Act and Presidential Decree No. 2291 of 1950 so as to provide for leave of at least 12 weeks, in accordance with the Convention and the national social security legislation.

Article 3, paragraph 4. The Government states in its report that it has taken note of the Committee's comments. The Committee therefore hopes that the next report will contain information on the measures which have been taken or are envisaged to include in the General Labour Act, the Social Security Code and the legislation respecting public servants and public employees, a provision allowing for the extension of pre-natal leave where confinement takes place later than the presumed date, without any reduction in the minimum post-natal leave period of six weeks prescribed by the Convention.

Article 4, paragraphs 5 and 8. The Committee once again hopes that, in accordance with the assurances given by the Government in its report, the necessary measures will be taken in the near future to enable women workers who cannot claim entitlement to the benefits provided through the social security scheme to receive appropriate benefits either out of public funds or through public assistance schemes.

Article 5. In reply to the Committee's previous comments, the Government states that, in accordance with the Social Security Code, women working in both the public and private sectors are entitled during the year following confinement to nursing breaks of half an hour in both the morning and the afternoon.

In this connection, the Committee notes that as regards the legal texts which are available to it, only section 61 of the General Labour Act, which is not applicable to public servants or public employees, contains a provision concerning nursing breaks. The Committee therefore hopes that the necessary measures will be taken to give effect to this provision of the Convention as regards this category of women workers.

Brazil (ratification: 1965)

In reply to the Committee's previous comments, the Government states in its report for the period 1991-92 that article 10, paragraph II(b), of the Transitional Provisions of the Federal Constitution of Brazil, which prohibits the dismissal without valid grounds of a woman worker during her pregnancy and the period of five months after confinement, is applied automatically and does not depend on any specific regulations. It also refers to article 7(I) of the Constitution, which gives general guarantees of the right of workers to protection against dismissal in an arbitrary manner or without valid grounds under the terms of supplementary legislation which will, in particular, provide for compensation, irrespective of any regulations.

The Committee recalls that the protection provided by the above provisions of the federal Constitution does not give full effect to Article 6 of the Convention, which prohibits the dismissal under any circumstances of a woman while she is absent from work on maternity leave or at such a time that the notice would expire during such absence. It also recalls that, in its previous report, the Government referred to article 7, paragraph XVIII, of the federal Constitution which, in the opinion of the Government, guarantees protection for women on maternity leave against any kind of dismissal (with or without valid grounds) during the period of their leave. The Government adds that the supplementary legislation provided for under article 7(I) of the Constitution will take account of the provisions of ILO Convention No. 103, by virtue of the principle that international treaties take precedence over national law. In this context, the Committee considers that it is all the more necessary to adopt supplementary regulations since, in a ruling dated 28 June 1989, the Higher Labour Court considered, in a case of dismissal during maternity leave, that the protection set out in article 7(XVIII) of the Constitution could not be invoked in the absence of the regulations which have to be adopted by the National Congress.

The Committee therefore once again expresses the hope that the above supplementary legislation will be adopted in the near future and that it will provide explicitly in accordance with article 7(XVIII) of the Constitution and with Article 6 of the Convention, that it is unlawful to dismiss a woman worker in any circumstances during her maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence.

Cuba (ratification: 1954)

In reply to the Committee's previous comments concerning interruptions of work for the purpose of nursing, the Government refers to Resolution No. 10 of 10 July 1991 of the State Committee for Labour and Social Security, which enables women workers to extend their post-natal leave to take care of children until they are six months' old and to receive an allowance equivalent to 60 per cent of their wages. While noting this information with interest, the Committee is bound to point out that these measures do not meet fully the requirements of Article 5 of the Convention, which aims to enable women workers who choose to resume their jobs on expiry of post-natal leave to interrupt their work for the purpose of nursing without any reduction in wages. The Committee again expresses the hope that, in the near future, the Government will adopt the necessary measures - legislative, regulatory, administrative or collective agreements - to provide for interruptions of work for the purpose of nursing which are counted as working hours and remunerated accordingly. The Government is asked to indicate any progress made in this respect in its next report.

Ecuador (ratification: 1962)

1. With reference to its previous observation, the Committee notes with satisfaction the adoption of Resolution No. 783 of 14 April 1992 by the Ecuadorian Social Security Institute (IESS) to amend section 97 of its codified statutes under which, in conformity with Article 4, paragraph 1, of the Convention, the period of the payment of cash maternity benefits has been extended to 12 weeks in accordance with Article 4 of the Convention. It also notes the Government's statement that this resolution applies both to women workers covered by the compulsory social insurance scheme, including domestic personnel, as well as women workers protected by the peasants' social insurance scheme.

2. Article 3, paragraph 4, and article 5, paragraph 2. In reply to the Committee's previous comments, the Government states that proposals to bring the national legislation into conformity with these provisions of the Convention and with national practice have been submitted to the National Congress on several occasions, but were not adopted when Act No. 133 of 21 November 1991 was enacted to reform the Labour Code. The Government states, however, that it will continue to urge the legislative authority to re-examine the question as rapidly as possible. The Committee is therefore bound once again to hope that the Labour Code will be supplemented by provisions explicitly providing that in the event of a late confinement the leave before the presumed date of confinement shall be extended and the period of compulsory leave to be taken after confinement shall not be reduced on that account, in accordance with Article 3, paragraph 4, of the Convention, and that interruptions of work for the purpose of nursing are to be counted as working hours and remunerated accordingly, in accordance with Article 5, paragraph 2.

3. Article 5, paragraph 1. With reference to its previous comments, the Committee recalls that, following the revision of section 156 of the Labour Code by Act No. 133 of 1991, the provision authorizing a mother working in an enterprise of 50 or more workers to interrupt her work in order to nurse her child was eliminated. On this subject, the Committee notes the communication of 27 February 1992 of the Ecuadorian Confederation of Free Trade Unions (CEOSL) concerning the application by Ecuador of Conventions Nos. 103 and 131, in which it points out that the elimination of the above provision is a violation of Article 5, paragraph 1, of Convention No. 103.

In its report, the Government indicates that this provision was eliminated due to the fact that it was not applied in practice, since the general custom is for mothers, during the first nine months following the birth of their child, to prefer to benefit from a reduced working day of six hours, using the two hours' reduction to nurse and tend to their child. It adds that the redistribution of the reduced working day is in accordance with the provisions of the collective agreement, the internal rules or agreement between the parties, under section 156 of the Labour Code, and that this reduction in working time does not result in a reduction in wages. While noting this information, the Committee wishes to draw the Government's attention to the fact that under section 156 of the Labour Code, as amended, the right to a reduced working day is only granted to women working in enterprises which do not have a crèche and in principle does not concern women working in enterprises with 50 or more workers which are obliged to provide child care facilities. The Committee therefore trusts that the Government will not fail to take the necessary measures to introduce into the legislation an explicit provision providing that women working in enterprises with 50 or more workers which have child care facilities have the right to interruptions of work for the purpose of nursing of sufficient duration, in accordance with Article 5, paragraph 1, of the Convention.

4. In its previous comments, which it has been making for many years, the Committee expressed the wish to be provided with information concerning the scope of the social insurance scheme. Since the Government's report does not contain a reply on this point, the Committee once again requests the Government to provide statistical information on the number of women workers in an employment relationship who are protected by the compulsory social insurance scheme and the peasants' social insurance scheme as a percentage of the total number of women workers in industrial enterprises and in non-industrial and agricultural work (including women wage-earners working at home). Furthermore, it hopes that the Government will be able to supply information on any new extension of the scope of the social insurance scheme so as to cover all the categories of women workers referred to in Article 1 of the Convention.

Italy (ratification: 1971)

The Committee notes that the Government's report has not been received. It hopes that a report will be supplied for examination at its next session and that it will contain full information on the following points, which were raised in its previous observation:

Article 6 of the Convention (domestic workers). The Committee recalls that in its previous reports the Government expressed the intention of amending Act No. 1204 of 1971, in accordance with the Convention, in order to make the rules relating to the protection against dismissal of women who are pregnant and working mothers applicable to domestic workers. In particular, in its report received in June 1989, the Government stated that the competent technical department was examining draft legislation which would make it possible to extend to domestic workers the prohibition of dismissal set out in Convention No. 103. With regard to the collective agreement concerning domestic work of 13 July 1988, to which the Government refers in the above report, the Committee once again draws the Government's attention to the fact that, as in the case of the previous collective agreement of 28 April 1987, domestic workers are protected against dismissal from the day of the presentation of the medical certificate of pregnancy to the day on which they begin their maternity leave. This collective agreement does not therefore provide protection against dismissal during maternity leave, which is contrary to Article 6 of the Convention. The Committee reiterates its hope that the Government will soon take the necessary measures to bring the national legislation into full conformity with the Convention on this point and requests the Government to report any progress achieved in this respect.

Spain (ratification: 1965)

The Committee notes with satisfaction that Act No. 3 of 3 March 1989, of which certain provisions also apply to public servants, has extended the total duration of maternity leave to 16 weeks (18 weeks in the case of multiple births) and has set at 6 weeks the length of compulsory leave after confinement, thereby giving better effect to Article 3, paragraphs 3 and 4, of the Convention, particularly as regards women employed in the public service. It also notes the statement by the Government that the minimum period of compulsory post-natal leave cannot be changed, even in the event of confinement occurring after the presumed date.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Austria, Guatemala, Poland, Spain.

Convention No. 105: Abolition of Forced Labour, 1957

Algeria (ratification: 1969)

Article 1(a) of the Convention. In comments it has been making for many years, the Committee has referred to the provisions concerning the right of association, under which sentences of imprisonment involving compulsory labour may be imposed in the circumstances covered by the Convention.

The Committee has referred to Ordinance No. 71-79 of 3 December 1971 and Act No. 87-15 of 21 July 1987 which have been repealed, the former by Act No. 87-15 and the latter by Act No. 90-31 respecting associations, promulgated on 4 December 1990. In its previous observation the Committee referred to Act No. 89-11 of 5 July 1989 respecting associations of a political nature.

The Committee notes that under section 5 of Act No. 90-31 any association whose objectives are contrary to the established institutional system, the public order, morals or existing laws or regulations shall be legally non-existent and, under section 45 of the same Act, any person who directs, administers or agitates in an association that is not recognized or that has been suspended or dissolved, or who facilitates the meetings of members of an association that is not recognized or has been suspended or dissolved, shall be punished by a penalty of imprisonment of from three months to two years.

The Committee observes that sections 2 and 3 of the Interministerial Order of 26 June 1983 prescribing the procedure for the utilization of prison labour by the National Agency for Educational Work, provide that, unless exempted on medical grounds, convicted prisoners (without distinction as to the nature of the conviction) shall be required to perform useful work as part of their re-education, training and social development.

The Committee observes that, despite the adoption of new legislation on associations, the discrepancies between the national legislation and the Convention, to which the Committee has been referring for several years, have not been eliminated.

The Committee recalls once again that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee also recalls that the protection afforded by the Convention is not confined to activities expressing or manifesting divergent opinions in the framework of established principles. Consequently, if certain activities are aimed at making fundamental changes in the institutions of the State, this does not constitute a reason for considering that such activities are outside the protection afforded by the Convention, provided that they do not involve the use of, or incitement to, violent methods to bring about that result.

The Committee has requested the Government on several occasions to take the necessary steps to ensure observance of the Convention either by lifting the restrictions on the right of association or by exempting from prison labour persons who are sentenced for breach of the laws on associations or, more generally, for politcal offences, and who have not committed acts of violence.

The Committee notes from the information in the Government's report that work is in process at the Ministry of Justice to harmonize the above-mentioned Interministerial Order of 26 June 1983 with international Conventions. The Committee trusts that the necessary measures will be adopted in the near future to ensure observance of the Convention and asks the Government to report on progress in this matter.

The Committee also asks the Government to provide information on the practical effect given to sections 3, 5, 6 and 36 of Act No. 89-11 and sections 5 and 45 of Act No. 90-31, particularly with regard to convictions handed down under these provisions, and to provide copies of the corresponding court decisions.

Brazil (ratification: 1965)

The Committee refers to its comments on Convention No. 29.

Burundi (ratification: 1963)

The Committee notes with interest the new Constitution of March 1992 which recognizes the freedom of the press and the various other texts transmitted by the Government.

1. It notes with satisfaction that several texts on which it had commented (Act No. 1/136 of 25 June 1976; Legislative Decree No. 1/4 of 28 February 1977 and Legislative Order No. 001/34 of 23 November 1966) were formally repealed by Legislative Decree No. 1/01 of 4 February 1992 issuing regulations respecting the press and by Legislative Decree No. 1/010 of 15 April 1992 on political parties.

2. The Committee notes the Government's statement in its report that subsequent texts and those issued under the new Constitution will take due account of the requirements of the Convention.

3. In its previous comments, the Committee noted that no legislative provision contained either in the Penal Code or in the legislation on prison labour made it possible to exempt political detainees from prison labour.

With reference to its 1979 General Survey on the Abolition of Forced Labour, and particularly paragraph 133, the Committee considers it necessary to recall that the Convention prohibits the use of forced or compulsory labour as a means of political coercion or education or a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee noted previously the Government's statement that consultations were being pursued with a view to revising the legislation on prison labour to explicitly exclude political prisoners from its scope.

The Committee hopes that, in view of its previous observations and direct requests, and in the current context of the harmonization of the legislation, the revision referred to above will be implemented and it requests the Government to supply information on the measures taken in this respect.

Central African Republic (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> Article 1(a) of the Convention. In the comments that it has been making for many years, the Committee has noted that sentences of imprisonment involving compulsory labour may be imposed under the following legislative provisions:
>
> - Act. No. 63/411 of 17 May 1963 (political activities undertaken outside the "MESAN" national movement);

- Act No. 60/199 of 12 December 1960 (dissemination of publications that are banned on the grounds that they are likely to prejudice the edification of the Central African nation);
- Order No. 3-MI of 25 April 1969 and Decree No. 70/238 of 19 September 1970 (dissemination of foreign periodicals or news that has not been approved by the censor).

The Committee noted the repeated indications of the Government that draft amendments to these texts had been submitted to the competent national authorities with a view to their adoption and that, furthermore, the provisions of Act No. 63/411 of 17 May 1963 had fallen into abeyance following the automatic dissolution of the MESAN.

The Committee noted, however, that, by virtue of article 3 of the new Constitution, adopted in 1986, the Central African Democratic Assembly was the sole party and it also noted that penalties of imprisonment were laid down in section 4 of the above-mentioned Act No. 63/411 of 17 May 1963 for any person "who establishes or attempts to establish a party, movement, group, association or organization of a political nature".

The Committee noted the Government's repeated statement that draft texts were before the competent national authorities with a view to their adoption. It expressed the hope that, in the near future, the Government would report on the measures adopted to ensure that sentences of imprisonment involving compulsory labour may not be imposed on persons who establish or attempt to establish a party, movement, group, association or organization of a political nature outside the sole party (Central African Democratic Assembly), including measures taken to repeal the provisions of Act No. 63/411 and the other texts referred to in its comments, in order to ensure observance of the Convention, and that the Government will provide the relevant texts.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Egypt (ratification: 1958)

The Committee notes the indications in the Government's report that the legislation is currently being reviewed in order to bring it into line with international Conventions. It also notes that the ILO will participate in this review. The Committee wishes to draw the Government's attention to the following points on which it has already made comments.

1. In its previous observations, the Committee referred to certain provisions of: the Penal Code; Act No. 156 of 1960 respecting the reorganization of the press; Act No. 430 of 31 August 1955 respecting film censorship; Act No. 32 of 12 February 1964 respecting associations and private foundations; the Public Meetings Act, 1923; the Meetings Act, 1914; and Act No. 40 of 1977 respecting political parties. It pointed out that the implementation of these provisions could affect the application of Article 1(a) of the Convention, which prohibits forced or compulsory labour as a means of

political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Committee noted the Government's indications repeated from previous reports that there are no longer any political prisoners and that the purpose of prison labour is to reintegrate the prisoner into society through the acquisition of various trades and vocational training and cannot be compared to forced labour.

With regard to prison labour, the Committee referred to paragraphs 102 to 109 of its General Survey of 1979 on the Abolition of Forced Labour and pointed out that, in the case of persons convicted for expressing certain political views, an intention to reform or educate them through labour would in itself be covered by the express terms of the Convention, which applies, inter alia, to any form of compulsory labour as a means of political education. The Committee has considered that compulsory labour in any form, including compulsory prison labour, is covered by the Convention in so far as it is exacted in the five cases specified by the Convention.

The Committee recalls that, in order to bring penal legislation falling within the scope of Article 1(a) into conformity with the Convention, measures may be taken either to redefine the punishable offences so that no person may be punished for holding or expressing political views or views ideologically opposed to the established political, social or economic order, or to modify the nature of the penalty, for example by replacing imprisonment with fines or by granting prisoners convicted of certain offences a special status under which they are exempt from prison labour imposed on common offenders, but allowed to work on their own initiative. The Committee asks the Government to indicate any measures taken or envisaged in this respect.

2. Article 1(d). In its previous comments, the Committee referred to sections 124, 124A, 124C and 374 of the Penal Code, under which strikes by any public employee may be punished with imprisonment which may involve compulsory labour. The Committee notes the Government's indications, repeated from a previous report, that article 151 of the Constitution and section 23 of the Civil Code provide that national laws become ineffective when their provisions are incompatible with international treaties ratified by Egypt. In this connection, the Government cited the judgement of the Supreme Court of State Security which, pursuant to Article 8 of the International Covenant on Economic, Social and Cultural Rights, acquitted the persons prosecuted in connection with a strike action of railway workers. The Committee asks the Government to indicate the measures taken or contemplated to amend the above-mentioned provisions of the Penal Code to bring them into line with the provisions of the Convention.

3. The Committee previously expressed the hope that measures would be taken to ensure observance of the Convention with regard to sections 13(5) and 14 of the Maintenance of Security, Order and Discipline (Merchant Navy) Act, under which penalties of imprisonment involving compulsory labour may be imposed on seamen who together commit repeated acts of insubordination. In this connection, the Committee recalled that Article 1(c) and (d) of the Convention

prohibits the exaction of forced or compulsory labour as a means of labour discipline or as punishment for having participated in strikes. The Committee noted, in this regard, that such punishment can only be authorized in cases of insubordination that endanger or are likely to endanger the safety of the vessel or the life of persons.

The Committee noted that section 13(5) and section 14 of the above Act can be applied to cases in which participation in a strike has not endangered the safety of the vessel. It noted that the Committee's comments had already been transmitted to the competent authorities in 1985 with a view to amending these provisions in order to align them with those of the Convention. It asks the Government to indicate the measures taken or contemplated in this respect.

4. The Committee also refers to the comments set out in its direct requests to the Government concerning the application of the Convention as well as of Convention No. 29.

It hopes that in the current review of the legislation the provisions in question will be amended so as to bring the legislation into conformity with the Convention and asks the Government to report on any progress made in applying the present Convention and Convention No. 29.

El Salvador (ratification: 1958)

1. Article 1(a) of the Convention. In previous comments, the Committee has referred to a series of provisions in the Penal Code that allow the imposition of penalties involving compulsory labour under section 49 of the Act concerning the organization of prisons and rehabilitation centres, for activities relating to the expression of political opinion or of opposition to the established system, which is contrary to the provisions of the Convention. The provisions in question are the following:

Section 376(2) and (3) on associations whose aims are teaching, disseminating or propagating doctrines that are anarchical or contrary to democracy. Section 377, under which imprisonment may be imposed on any person who promotes, establishes, organizes or directs sections or branches of foreign organizations or bodies advocating doctrines that are anarchical or contrary to democracy and on those taking part in such sections or branches. Section 378, punishing those who disseminate or propagate doctrines that are anarchical or contrary to democracy. Section 379, concerning the possession of subversive material (printed matter, tapes, photographs or films) for use in the dissemination of the doctrines mentioned in the preceding section. Section 380, concerning persons who cooperate in subversive propaganda and section 407, concerning participation in associations that exist for the purpose of committing an offence.

The Committee took note of the promulgation of Decree No. 50 of 24 February 1984 issuing the Act on the criminal procedure to be applied when constitutional guarantees are suspended. It noted that this Act lays down that persons charged with committing offences against the legal personality of the State shall be judged by military courts (sections 373 to 380), if constitutional guarantees are suspended. The offences laid down in the Code of Military Justice also come within the competence of these courts. The Committee pointed out that the Act concerning the organization of prisons did not provide for the exemption from prison labour of those sentenced for political offences.

The Committee requested the Government to provide information on the practical application of Decree No. 50, particularly in respect of the number of sentences pronounced by the military courts under the sections of the Penal Code which have been the subject of comments by the Committee for some years, and to supply a copy of any particularly relevant sentences.

The Committee notes from the Government's report that political prisoners come under the jurisdiction of military courts and that, in practice, remunerated activity is an option for such prisoners and not an obligation. The Government adds that the amendment of sections 49, 50 and 51 of the Act concerning the organization of prisons and rehabilitation centres is in the process of being examined.

The Committee hopes that the necessary measures will be taken promptly to ensure observance of the Convention, either by removing the restrictions on the right of association and the right to express political opinions which are opposed to the established system, provided for in the above-mentioned provisions of the Penal Code, or by exempting from prison labour persons who are sentenced for breach of these provisions or, more generally, persons sentenced for political offences who have not committed acts of violence.

2. Article 1 (c) and (d). In previous comments, the Committee has referred to section 291 of the Penal Code, under which penalties of imprisonment involving compulsory labour may be imposed on any person who, without creating a situation of public danger, prevents, hinders or paralyses the functioning of any class of transport or public utility service and on workers in a public utility undertaking or service who stop or suspend the service without just cause so as to disrupt its regular operation.

The Committee asked the Government to take the necessary measures to ensure that penalties involving compulsory labour cannot be imposed as a punishment for having participated in strikes or for breaches of labour discipline.

The Committee notes from the Government's report that there is no record of any sentence passed under this provision in the general register of offenders and that the only instance of such a sentence was the case of the members of the executive committee of the union at Hidroeléctrica del Río Lempa.

The Committee hopes that the Government will take the necessary steps to bring the national legislation into conformity with the Convention, either by repealing section 291 of the Penal Code which, according to the Government, is not applied in practice, or by exempting from prison labour persons sentenced for participating in strikes or for breaches of labour discipline.

Ghana (ratification: 1958)

The Committee notes with interest the coming into force on 7 January 1993 of a new Constitution which prohibits forced labour and provides for the protection of fundamental human rights, including the right to freedom of speech and expression, freedom of assembly, of association and freedom to participate in political parties (Articles 16 and 21). The Committee notes that any enactment or rule of law in force before the coming into force of the Constitution continues in force as if enacted, issued or made under the authority of the Constitution in so far as it is not inconsistent with a provision of the Constitution (Transitional Provisions, Article 36).

The Committee recalls that it has been commenting for a number of years on provisions of the Criminal Code, the Newspaper Licensing Decree, 1973, the Merchant Shipping Act 1963, the Protection of Property (Trade Disputes) Ordinance and the Industrial Relations Act 1965, under which imprisonment (involving an obligation to perform labour) may be imposed as a punishment for non-observance of restrictions imposed by discretionary decision of the executive on the publication of newspapers and the carrying on of associations, for various breaches of discipline in the merchant marine and for participation in certain forms of strikes. The Committee had requested the Government to adopt the necessary measures in regard to these provisions to ensure that no form of forced or compulsory labour (including compulsory prison labour) might be exacted in circumstances falling within Article 1(a), (c) or (d) of the Convention. The Committee has also repeatedly requested the Government to supply information on the practical application of a number of legislative provisions. The Government previously stated that the Committee's comments were being discussed in the Tripartite National Advisory Committee on Labour.

The Committee notes the Government's information in its latest report that the issue is still under consideration and that opinions have been sought from competent bodies. The Committee hopes that the Government will re-examine the above-mentioned provisions in the light of the new Constitution and the provisions of the Convention and that it will provide detailed information on the measures taken or envisaged to bring legislation into conformity with the Convention.

The Committee again addresses a request directly to the Government on the application in practice of a certain number of provisions to which it also referred previously.

Greece (ratification: 1962)

The Committee notes the information supplied by the Government in its report.

For many years, the Committee has been commenting on certain provisions of maritime law which allow penalties of imprisonment to be imposed on seafarers, in contravention of the provisions of Article 1(c) and (d) of the Convention.

The Committee noted that under section 55 of the Minor Offences Code of 1967 governing the serving of sentences, persons sentenced to imprisonment are subject to compulsory labour.

The Committee notes the Government's renewed statement that section 55 of the Minor Offences Code refers to work as a corrective measure and not a punishment. The Government adds that the Greek

Constitution prohibits all forms of compulsory labour and that no appeals have been filed on the grounds that the above provisions are unconstitutional, which demonstrates that they are consistent with the Constitution and the Convention.

The Committee is bound to draw the Government's attention once again to the explanations in paragraphs 104 to 109 of its General Survey of 1979 on the abolition of forced or compulsory labour, in which it indicated that prison labour, in most cases, has no relevance to the application of the Convention; however, it is covered by the Convention in so far as it is exacted in the five cases specified in Article 1 of the Convention.

The Committee therefore hopes that the Government will indicate the measures taken in respect of the following provisions:

- sections 205, 207(1); 208, 210(1); and 222 of the Code of Public Maritime Law of 1973 allowing sentences of imprisonment (involving compulsory labour) to be imposed on seamen for breaches of labour discipline that do not endanger the safety of the ship or the lives or health of persons. The Committee noted that breaches of discipline endangering the safety of the ship or the lives or health of persons are punishable under other sections of the same Code;
- section 4(1) of Act No. 3276 of 26 June 1944 respecting collective agreements in the merchant marine and section 15 of Act No. 299 of 25 October 1936 respecting collective labour disputes in shipping, under which violations of a clause of a collective agreement or of an executory decision concerning pay are punishable by sentences of imprisonment (involving compulsory labour).

The Committee is again addressing a request directly to the Government concerning section 213(1) and (2) of the Code of Public Maritime Law and Legislative Decree No. 794 of 1970 respecting public meetings.

Guinea (ratification: 1951)

1. The Committee has been commenting for many years on a number of provisions which are contrary to the Convention. In previous comments, it noted the Government's statement to the effect that the legal texts in question had fallen into abeyance and are due to be revised or repealed as part of the programme for the complete revision by stages of all laws and regulations. The Government stated that the following texts would be covered by this procedure:

- Decree No. 416/PRG of 22 October 1964 under which all persons between 16 and 25 years of age are placed in the service of the Organization for Work Centres of the Revolution, whose purpose is to overcome the technical and economic underdevelopment of the Republic;
- Act No. 45/AN/69 of 24 January 1969 respecting the disclosure of professional secrets and the unlawful communication of State and Party documents;
- Act No. 64/AN/66 of 21 September 1966 to issue the Code of Criminal Procedure;

- all legislation relating to prison labour, the maintenance of law and order, the press and publications, meetings and associations, vagrancy and idlers and the discipline of seafarers.

The Committee notes that under sections 93 and 94 of the new Basic Act of 31 December 1990 (Decree No. 250/90) and under Act No. 2/91/001 of 1 August 1991, the Transitional National Recovery Council (CTRN) is empowered to enact legislation and take decisions with force of law. The Committee also notes the Government's statement in its report to the effect that a revision of the laws and regulations has been commenced.

The Committee hopes that the Government will soon report the progress achieved in bringing the texts which have been the subject of its comments into conformity with the Convention, including sections 71(4), 110, 111, 176 and 177 of the Penal Code.

2. In its previous comments, the Committee referred to Ordinance No. 52 of 23 October 1959 laying down compulsory service, which may be of a military or non-military nature, for all male citizens.

The Government stated in previous reports that there is no compulsory military service, but that students of both sexes perform one year's military service which is devoted entirely to military tasks. The Government also stated that this service, which was compulsory, has become optional.

The Committee once again requests the Government to supply information on the provisions which have been adopted to this end and to supply a copy of the relevant texts, particularly any texts amending or repealing Ordinance No. 52 of 1959.

Ireland (ratification: 1958)

Article 1(c) and (d) of the Convention. In comments made since 1963, the Committee pointed out that under sections 221 and 225(1)(b) and (c) of the Merchant Shipping Act, 1894, certain disciplinary offences by seamen are punishable with imprisonment (involving, under section 42 of the Rules for the Government of Prisons, 1947, an obligation to work), and that under sections 222, 224 and 238 of the Merchant Shipping Act, seamen absent without leave may be forcibly conveyed on board ship. The Committee likewise pointed out that section 16 of the Conspiracy and Protection of Property Act, 1875, deprives seamen of immunity from criminal liability for conspiracy in respect of acts in contemplation of or furtherance of trade disputes, and that under section 225(1)(e) of the 1894 Act it is an offence, punishable by imprisonment (involving an obligation to work), for seamen to combine to disobey lawful commands or to neglect duty.

The Committee noted the Government's indications over a number of years that there had been no practical application of these provisions and that the amendment of the merchant shipping legislation was proceeding.

In 1991 the Government informed the Conference Committee that in the current legislative changes, priority was given to important and urgent questions of passengers' security, and that the provisions on which the Committee had been commenting would be kept under consideration.

The Committee notes the Government's assurances in its latest report that the urgency of revising the provisions in question had been underlined to the authority concerned with the review of the Act, and that the Government was anxious to rectify a situation where Ireland is not seen to be in compliance with a ratified Convention.

Recalling that the aforementioned provisions of the 1894 Merchant Shipping Act have already been repealed in a large number of countries where they had been formerly in force, the Committee trusts that the necessary action will be taken to bring the merchant shipping legislation into conformity with the Convention and that the Government will report on the measures adopted to this end.

Liberia (ratification: 1962)

Further to its general observation, the Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> Article 1(a) of the Convention. 1. The Committee noted the entry into force on 6 January 1986 of the new Constitution which guarantees fundamental rights, in particular the right to freedom of expression (article 15), the right to assemble and to associate (article 17), and provides for the free establishment of political parties, subject to their being registered (articles 77 and 79). The Committee noted that under article 95 of the new Constitution any enactment or rule of law in existence immediately before the coming into force of the Constitution, whether derived from the abrogated Constitution or from any other source shall, in so far as it is not inconsistent with any provision of the new Constitution, continue in force as if enacted, issued or made under the authority of the Constitution. The Committee referred to its previous comments in which it observed that prison sentences (involving, under Chapter 34, section 34-14, paragraph 1, of the Liberian Code of Laws, an obligation to work) might be imposed in circumstances falling within Article 1(a) of the Convention under section 52(1)(b) of the Penal Law (punishing certain forms of criticism of the Government) and section 216 of the Election Law (punishing participation in activities that seek to continue or revive certain political parties). The Committee requested the Government to state whether the above provisions continue in force and, if so, to indicate the measures taken or contemplated with a view to their repeal. The Committee also requested the Government to provide a copy of the Decree No. 88A of 1985 relating to criticism of the Government.
>
> Article 1(c) and (d). 2. In earlier comments the Committee also referred to various provisions of the Maritime Law punishing breaches of labour discipline and of Decree No. 12 of 30 June 1980 prohibiting strikes. In the absence of a reply, the Committee again addressed a direct request on these matters to the Government.

3. In its previous comments concerning Decree No. 12 of 30 June 1980 prohibiting strikes, the Committee noted the Government's statement in its report for 1982-83 that no penalty had been imposed for violation of the Decree and the statement by a Government representative to the Conference Committee in 1984 during the discussion of Convention No. 87 that the ban on strikes was due to be lifted on 26 July 1984.

The Committee observed that the Government's report contained no information in this regard. The Committee noted however from the conclusions adopted by the Committee on Freedom of Association concerning Case No. 1219 (in particular the 241st Report of that Committee) that the ban on strikes had not yet been lifted. The Committee requested the Government to provide information on any measures adopted or envisaged in this matter.

Libyan Arab Jamahiriya (ratification: 1961)

The Committee notes the Government's report dated 28 May 1992 and the information supplied by the Government to the Conference Committee in June 1992.

1. Article 1(a), (c) and (d) of the Convention. In the comments it has been making for a number of years, the Committee has referred to various provisions of the Publications Act of 1972, under which persons expressing certain political views or views ideologically opposed to the established political, social or economic system may be punished with penalties of imprisonment (involving, under section 24(1) of the Penal Code, an obligation to perform labour). The Committee also referred to sections 237 and 238 of the Penal Code, under which penalties of imprisonment (involving compulsory labour) may be imposed on public servants or employees of public institutions as a punishment for breaches of labour discipline or for participation in strikes, even in services the interruption of which would not endanger the life, personal safety or health of the whole or part of the population.

The Committee notes the information supplied by the Government to the effect that Act No. 5 of 1991 on the application of the principles of the Green Book on Human Rights, and Act No. 20 of 1991 on the promotion of freedom, proclaim the right of each citizen to express his opinion, and that part 2 of the Green Book prohibits penalties such as forced labour. It also notes that under section 2 of Act No. 5 of 1991, amendments must be drawn up within a period of one year and that the provisions of the Publications Act No. 76 of 1972 and of the Penal Code will be amended.

The Committee hopes that the envisaged amendments will provide for the exemption from compulsory labour imposed as a punishment or means of coercion or political education on persons who have expressed certain political or ideological opinions and that they will abolish forced or compulsory labour as a measure of labour discipline.

The Committee requests the Government to supply information on the work that has been undertaken to amend the legislation and to transmit the relevant texts.

2. The Committee notes the indications provided by the Government, in reply to its comments, to the effect that the Orders of the Higher Council of the Revolution of 1969, the texts of which it had been requesting, became null and void following the promulgation of Acts Nos. 5 and 20 of 1991.

The Committee notes that section 35 of Act No. 20 of 1991 provides in general terms that all conflicting legislation is amended. It also notes that the Orders in question on the defence of the revolution (of 11 December 1969) and on trials for political and administrative corruption (of 26 October 1969) are explicitly referred to in section 5(A)(8) of the Publications Act No. 76 of 1972. The Committee requests the Government to indicate the measures that have been taken to formally repeal the texts in question and to transmit the provisions adopted to this effect.

The Committee notes that the text of Act No. 5 of 1991 was not included in the list of texts transmitted by the Government. It requests the Government to supply the text of this Act and of all other texts referred to above, and particularly the Green Book on Human Rights and the legislative texts concerning the establishment, functioning and dissolution of associations and political parties.

Mauritius (ratification: 1969)

In its previous comments the Committee noted that under section 183(1)(a), (b), (c) and (e), read together with section 184(1) of the Merchant Shipping Act, No. 28 of 1986 (which came into operation on 15 January 1991 by virtue of Proclamation No. 1 of 1991), certain breaches of discipline by seamen (such as desertion, neglect or refusal to join the ship, absence without leave, neglect of duty) are punishable by imprisonment (involving an obligation to perform labour), and that under section 183(1), (3) and (4) seamen who are not citizens of Mauritius, and who commit such offences, may be conveyed on board ship for the purpose of proceeding to sea.

The Committee noted that these provisions repealed sections 221 to 224 and 225(a), (b), (c) and (e) of the United Kingdom Merchant Shipping Act, 1894 applicable to Mauritius, on which the Committee had been commenting for numerous years. The Committee observed however that under the provisions of the 1986 Act, breaches of discipline continued to be punishable by sentences of imprisonment (involving an obligation to work) even where the offence does not endanger the safety of the ship or the life or health of persons, and seamen may be forcibly conveyed on board ship to perform their duties.

The Committee notes the Government's information in its report, that the provisions under sections 183 and 184 are meant for extreme cases where seamen repeatedly indulge in these offences, that in practice no breaches have been noticed and that each offence would be considered by a disciplinary committee to be established under the Seamen's Act.

Referring to paragraphs 110 to 125 of its 1979 General Survey on Forced or Compulsory Labour, the Committee recalls that the Convention does not protect seamen responsible for breaches of labour discipline endangering the safety of the ship or the life or health of persons on board. However the scope of the above-mentioned provisions of the Merchant Shipping Act is not limited to such cases.

The Committee hopes that the Government will provide information on the measures taken or envisaged to bring the 1986 Merchant Shipping Act into conformity with the Convention on this point.

Article 1(d). In comments made for many years, the Committee has referred to sections 82 and 83 of the Industrial Relations Act, 1973, which empower the minister to refer any industrial dispute to compulsory arbitration, enforceable by penalties involving compulsory labour. The Committee has pointed out that these provisions are incompatible with Article 1(d) of the Convention.

The Committee notes with interest the Government's information in its report that the Special Law Review Committee set up to review the Industrial Relations Act has submitted its report. The Committee hopes that in examining the report the Government will take due consideration of the provisions of the Convention which prohibit the use of forced or compulsory labour as a punishment for having participated in strikes. Any compulsory arbitration enforceable with penalties involving compulsory labour, must be limited to services whose interruption is likely to endanger the life, personal safety or health of the whole or part of the population. The Committee hopes that the Government will report on the measures adopted to ensure the observance of the Convention in this regard.

Nicaragua (ratification: 1967)

The Committee notes with satisfaction that Act No. 66 of 19 October 1989 repeals Decree No. 1074 respecting the maintenance of public order and security, which provided for penalties of imprisonment and public works to be imposed on persons who disseminated, by speech or by writing, certain political opinions.

Nigeria (ratification: 1960)

In its previous comments the Committee noted the adoption in 1989 of a new Constitution which was to come into force on 1 October 1992. The Committee notes, however, that the transition to civilian rule, scheduled for 2 January 1993, was extended to 27 August 1993.

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation on the following matters:

> Article 1(a) of the Convention. 1. The Committee previously noted that the new Constitution provided for the protection of fundamental rights, such as the right to freedom of thought, conscience, to freedom of expression and the press, the right of peaceful assembly and association (articles 32 to 41) and for the state social order to be founded on ideals of freedom, equality and justice. The Committee noted also that the federal military Government may promulgate constitutional and transitional Decrees during the transition period (Constitution

of the Federal Republic of Nigeria (Promulgation) Decree 1989, sections 1 to 3).

The Committee noted the Government's indication in its report in 1990 that the ban on freedom of association and assembly had been lifted as well as the ban on political activities and that two political parties emerged, namely the Social Democratic Party and the National Republican Convention. The Committee noted, however, that only two political parties can be established under article 220 of the new Constitution and were in fact allowed to compete in the 1990 local elections which were the first political elections since 1983.

The Committee expressed the hope that the Government would provide information on any legislative or statutory provisions adopted under the provisions of the new Constitution when in force, in relation to the expression of views, freedom of association and assembly, and political activities. Referring in this context to the restrictions on the establishment of political parties, the Committee recalled that the Convention prohibits the use of any form of forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. The Committee asked the Government to indicate the measures taken or envisaged to ensure that the persons protected by the Convention may not be punished by penalties which would involve an obligation to work.

The Committee had also noted that under the State Security (Detention of Person) Decree No. 2 of 1984 persons could be detained for successive periods of three months (respectively six months following the amendment of the Decree), constitutional guarantees in this matter being suspended, and that under the State Security (Detention of Persons) (Amendment) Decree of 25 January 1990 the successive periods of detention of six months had been substituted by periods of six weeks and a Detention of Persons Review Panel had been established. The Committee expressed the hope that the Government would provide a copy of any Act or regulation governing the conditions of detention for persons detained under Decree No. 2 of 1984, as amended.

Article 1(c) and (d). 2. In previous comments, the Committee noted that under section 81(1)(b) and (c) of the Labour Decree, 1974, a court may direct fulfilment of a contract of employment and posting of security for the due performance of so much of the contract as remains unperformed, and a person failing to comply with such direction may be committed to prison. The Committee had noted the Government's indication that committal to prison in such circumstances did not usually involve an obligation to perform work, but that efforts would be made to submit section 81(1)(b) and (c) of the Labour Decree, 1974 to the National Advisory Council for necessary amendments.

The Committee noted the Government's statement in an earlier report that the sections in question had been submitted to the National Advisory Council for review and amendments. The Committee expressed the hope that the Government would soon be in a position to report on measures adopted to ensure that no sanctions which may involve an obligation to perform work were provided for breaches of labour discipline or for taking part in a strike.

3. In previous comments, the Committee referred to section 117(b), (c) and (e) of the Merchant Shipping Act, under which seamen are liable to imprisonment involving an obligation to work for breaches of labour discipline even in the absence of a danger to the safety of the ship or of persons. The Committee expressed the hope that in this regard too, the necessary measures would be taken to ensure the observance of the Convention, and that the Government would soon be able to indicate the amendments adopted.

Article 1(d). 4. The Committee previously noted that under section 13(1) and (2) of the Trade Disputes Decree, No. 7 of 1976, participation in strikes may be punished with imprisonment involving an obligation to work in the following cases: (a) where the mediation and reporting procedure imposed by sections 3 and 4 of the Decree for all industrial disputes has not been complied with; (b) where arbitration procedures under sections 7 to 9 of the Decree, which shall be initiated by the Federal Commissioner whenever conciliation attempts have failed, have led to an award by the arbitration tribunal and that award has become binding; (c) when the Federal Commissioner has referred the dispute to the National Industrial Court; (d) when the National Industrial Court has issued an award on the reference.

The Committee noted the Government's statement that section 13 merely imposed on an employer or worker an obligation to observe and exhaust prescribed procedures before engaging in a strike or lock-out. In this connection, the Committee referred to paragraph 130 of its 1979 General Survey on the Abolition of Forced Labour, where it explained that the imposition of a temporary restriction on the right to strike until all facilities for negotiation and conciliation have been exhausted and while voluntary arbitration procedures were in progress, were to be distinguished from compulsory arbitration systems which result in binding awards allowing practically all strikes to be prohibited or rapidly stopped. When such systems provide for sanctions involving compulsory labour, they should be limited to sectors and types of employment where restrictions may be imposed on the right to strike itself, that is, to essential services in the strict sense of the term (i.e. services whose interruption would endanger the life, personal safety or health of the whole or part of the population). The Committee further noted that the list of essential services included in Schedule 1 to Decree No. 7 of 1976 and in section 8 of the Trade Disputes (Essential Services) Decree No. 23 of 1976 is wider and covers for example the Central Bank and banking business. Noting the Government's indication in its report that the provisions of section 13(1) and (2) of the Trade Disputes Decree No. 7 of 1976 had been submitted to the National Labour Advisory Council for necessary review and amendment, the Committee expressed the hope that necessary action would soon be taken to ensure the observance of the Convention in this regard and that the Government would indicate the measures taken or contemplated to amend the legislative provisions referred to.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Philippines (ratification: 1960)

The Committee notes the Government's report.

Article 1(d) of the Convention. In its previous comments the Committee noted that in case of a planned or current strike in an industry considered indispensable to national interest, the Secretary of Labour and Employment may assume jurisdiction over the dispute and decide it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable in his opinion to the national interest and assume jurisdiction over a labour dispute (section 263(g) of the Labour Code). The declaration of a strike after assumption of jurisdiction or submission to compulsory arbitration is prohibited (section 264).

Participation in an illegal strike is punishable by imprisonment (involving under section 1727 of the Revised Administrative Code an obligation to perform labour) of up to three years (section 272(a) of the Labour Code). The revised Penal Code also lays down sanctions of imprisonment (section 146).

The Committee notes the Government's renewed indication in its report that section 1727 of the revised Administrative Code is not a penalty and should not be interpreted as in violation with the Convention. The Government states that prison labour enables the prisoner to lead a productive and useful life, maintain self-worth and avoid boredom and self-pity; prisoners receive compensation.

The Committee notes that the Government refers also to its previous statements in relation to the application of Convention No. 87 where it indicated that there is no automatic prosecution for illegal strikes. The Committee refers in this regard to its 1991 comments concerning Convention No. 87.

With reference to paragraphs 102 to 109 as well as 123 of its 1979 General Survey on the Abolition of Forced or Compulsory Labour, the Committee recalls that labour imposed on persons as a consequence of a conviction in a court of law will in most cases have no relevance to the application of the Convention, but that, on the other hand, any form of compulsory labour, including prison labour, is covered by the Convention if imposed in any of the five cases specified by the Convention. The Committee further recalls with reference to paragraph 123 of the above-mentioned General Survey that any compulsory arbitration enforceable with penalties, involving compulsory labour, must be limited to services whose interruption would endanger the life, personal safety or health of the whole or part of the population.

The Committee notes that the Constitution of the Philippines grants all workers the right to strike (article XIII(3)). Noting also recent information from the Government that ILO's technical assistance is being sought for reform of the national labour laws, the Committee hopes that the Government will indicate the measures taken or envisaged to bring the legislation into conformity with the Convention.

Senegal (ratification: 1961)

Article 1(c) and (d) of the Convention. In its previous comments, the Committee noted that under sections 223 and 243 of the Merchant Navy Code, seafarers are punished for breaches of labour discipline (absence without leave from the vessel, refusal to obey after formal order) with sentences of imprisonment involving compulsory labour under section 40 of the Penal Code.

The Committee notes that in its report the Government reiterates its previous indications to the effect that the authorities have decided to bring the provisions in question into conformity with the Convention during the revision of the Merchant Navy Code and that, in practice, no sentence of imprisonment has been passed on a seafarer committing a breach of labour discipline.

The Committee requests the Government to supply information on any progress achieved in the adoption of the necessary amendments to bring the Merchant Navy Code into conformity with the Convention.

Sierra Leone (ratification: 1961)

The Committee notes that the Constitution adopted in 1991 (Act No. 6 of 1991) which provides for the recognition and protection of fundamental human rights and freedoms, was suspended in May 1992. The Committee notes that a council to advise on the reintroduction of a multi-party system has been established.

In its previous comments the Committee referred to the 1978 Constitution (in relation to the Recognized Party) and the Public Order Act. The Committee requested information on the application in practice of sections 24, 32 and 33 of the Public Order Act (concerning public meetings, the publication of false news and seditious offences). The Committee notes the Government's indication in its report that following structural changes in the Ministry of Labour, the Law Officers Department will probably soon provide the information requested.

The Committee hopes that the Government will supply the information in question as well as indications on the evolution of the political situation, as far as it relates to the application of the Convention.

Sudan (ratification: 1970)

The Committee notes with regret that the Government's report has not been received. It notes the discussion which took place at the Conference Committee in 1992. In its previous observation, the Committee noted that a state of emergency had been proclaimed in 1989 and that it extended the previous one. It also noted that the provisional Constitution of 1985 had been suspended. The Committee notes the Government's statement at the Conference Committee that the state of emergency had been partially lifted and that it would be totally lifted soon. And that the legislative authority would soon prepare the Constitution and the legislation of the country.

1. The Committee noted that offences against the Regulations to give effect to the state of emergency of 1989 are subject to the death penalty or to imprisonment for not more than 20 years. Under the prison regulations, imprisonment imposes an obligation to work.

The Committee, further to the comments of the Conference Committee, recalls that under the Convention, the nature and duration of the measures taken in an emergency, when applied in cases covered by Article 1 of the Convention and enforced by penalties involving compulsory labour, should be strictly limited to what is considered absolutely indispensable to cope with real and immediate circumstances endangering the life, safety or health of the population.

The Committee expresses the hope that the Government will take the necessary measures to ensure that the provisions of the Convention and of Convention No. 29, which the Government has also ratified, are duly taken into account in the preparation of all constitutional or legislative provisions. The Committee hopes that the Government will take the necessary measures to ensure that penalties involving compulsory work as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the political, social or economic system cannot be imposed, with particular reference to the expression of views by the press, political activities and the right of association and assembly.

The Committee asks the Government to supply full information on all penalties imposed pursuant to the provisions issued during the state of emergency; on all provisions adopted in matters within the scope of the Convention, with particular reference to the expression of views, political activities, and freedom of association and assembly; and on all measures taken or contemplated to ensure compliance with the Convention in this respect.

2. The Committee noted previously that Constitutional Decree No. 1 of 1989 and the Acts in force at the time of suspension of the Constitution remain applicable. The Committee again asks the Government to supply information on the progress of the revision of the laws to which the Government referred on several occasions and to supply the new texts as soon as they are adopted, and especially the 1992 Labour Act.

3. In its previous comments, the Committee referred to the Industrial Relations Act of 1976. It noted that participation in strikes was punishable with imprisonment involving compulsory labour whenever the Ministry of Labour decided to submit the dispute to compulsory arbitration. The Committee noted that, under section 17 of the Act, the Minister might, whenever he deemed it necessary, refer the dispute to an arbitration tribunal whose award was final and without appeal.

The Committee notes the Government's statement at the Conference Committee that the Act of 1976 is being reconsidered in order to ensure its compatibility with ILO standards especially with regard to arbitration and the right of the Minister to send any dispute to compulsory arbitration. This right, however, was only exercised in the case of essential services whose stoppage could damage the health and security of the population. The Committee further notes the Government's assurances that it would take full account of the Committee's comments and that the question of the exact definition of what services were essential or not would be communicated to the Committee of Experts.

The Committee asks the Government to supply the text of every measure taken to limit the system of compulsory arbitration, enforceable by penalties involving compulsory labour, strictly and explicitly to essential services whose interruption is likely to endanger the life, personal safety or health of the whole or part of the population.

The Committee notes further that Constitutional Decree No. 2 of 1989 imposes a prohibition on any strike save by special permission. It asks the Government to specify what authorities can issue such permission and by what procedure. In that connection it points out that its General Survey of 1979 on the Abolition of Forced Labour holds in paragraph 126 that such a suspension of the right to strike enforced by penalties involving compulsory work is compatible with the Convention only in so far as it is necessary to cope with cases of *force majeure* in the strict sense of the term - namely, when the existence of the population is endangered - provided that the duration of the prohibition is limited to the period of immediate necessity.

It hopes that the Government will take the necessary measures to ensure compliance with the Convention on this point.

The Committee is addressing a request directly to the Government on various other points.

Syrian Arab Republic (ratification: 1958)

Article 1(a), (c) and (d) of the Convention. In its previous comments, the Committee referred to certain provisions of the Economic Penal Code, the Penal Code, the Agricultural Labour Code and the Press Act, under which prison sentences involving compulsory labour can be inflicted for acts covered by Article 1(a), (c) and (d). It noted that a draft Legislative Decree amending various sections of the Penal Code to eliminate all prison work was being examined by the legislative authorities.

The Committee notes that the Government's report contains no new information on the matter. The Committee reiterates the hope that the Government will take the necessary measures to ensure observance of the Convention in the very near future and that it will provide a copy of the provisions adopted.

United Republic of Tanzania (ratification: 1962)

Further to its previous comments the Committee notes the information provided by the Government in its report. The Committee also notes the discussion which took place in the Conference Committee in 1992.

The Committee notes the Government's statement in its report that ministerial consultations aimed at amending a number of provisions contained in the Penal Code, the Newspapers Act, the Merchant Shipping Act and the Industrial Court Act are continuing, bearing in mind the current political situation, following the adoption of the ninth constitutional amendment. The Constitution, as amended, allows for multi-party politics; and the Political Parties Act 1992 provides specifically for formation and registration of political parties.

The Committee hopes that the draft legislation currently under consideration will provide for the repeal of all provisions which are incompatible with the Convention and that the Government will indicate the action taken in this regard. The Committee also hopes that the Government will provide information on the amendment or repeal of the provisions of different enactments to which it refers in its comments under Convention No. 29 and which are in contradiction with Article 1(b) of Convention No. 105.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Bahamas, Barbados, Burundi, Central African Republic, Comoros, Costa Rica, Djibouti, Dominica, Egypt, El Salvador, France, Ghana, Greece, Guinea-Bissau, Israel, Islamic Republic of Iran, Italy, Jordan, Kuwait, Liberia, Mali, Nicaragua, Nigeria, Papua New Guinea, Philippines, Saudi Arabia, Senegal, Seychelles, Sudan, Suriname, United Republic of Tanzania, United Kingdom, Uruguay.

Information supplied by Cape Verde in answer to a direct request has been noted by the Committee.

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

Colombia (ratification: 1969)

Article 8, paragraph 3, of the Convention. In its previous comment, the Committee regretted that Law 50 of 1990 to amend the Labour Code provided that employers have to give a compensatory weekly rest day where a person works a shift on a Sunday only in establishments which operate continuous shifts; otherwise, those working exceptionally on the weekly rest day may still (as provided for in the previous version of the Labour Code) opt for either compensatory rest or compensatory payment. This is contrary to this Article of the Convention, which calls for compensatory rest in all such cases. In its latest report, the Government has indicated that the necessary measures will be taken in accordance with article 53 of the 1991 Constitutional Reform to bring the legislation into conformity with this Article, which has been the subject of the Committee's comments since 1973. The Committee hopes that the Government will take the necessary measures in the near future to ensure that compensatory rest is provided to all workers covered by the Convention when temporary exemptions to weekly rest requirements have been granted.

Egypt (ratification: 1958)

In observations since 1975, the Committee has noted that the Labour Code of 1981 does not ensure that compensatory rest is provided for persons working on the weekly rest day, as called for by Article 8, paragraph 3, of the Convention. It notes the Government's indication in its report of January 1992 that the Committee's previous comments were being taken into consideration by the tripartite commission created in 1988 to study the revision of the Labour Code. Finally, the Government has indicated in its latest report that cases where work on the weekly rest day is compensated by twice the normal salary instead of compensatory rest, by virtue of section 140 of the Labour Code, are rare and linked to circumstances and requirements often beyond the control of the employer. The Government concludes that section 140 is in conformity with the Convention.

The Committee would recall that Article 8 of the Convention permits temporary exemptions to the granting of the weekly rest day in certain circumstances, but, by virtue of paragraph 3, requires compensatory rest to be provided. The Committee, therefore, trusts that the Government will take the necessary measures in the near future to bring the legislation into conformity with the Convention and indicate, in its next report, the progress made in this regard.

Syrian Arab Republic (ratification: 1958)

Article 8, paragraph 3, of the Convention. Since 1964, the Committee has been drawing the Government's attention to the need to adopt measures in order to guarantee compensatory rest to workers who, under exceptions provided for in section 120 of the Labour Code, work on the weekly rest day. The Committee notes that a new draft text giving effect to this provision of the Convention has been submitted to the Council of Ministers and, according to the Government's latest report, is currently under examination with a view to its enactment. The Committee trusts that the new text will not fail to deal with the above question and that the Government will be able to indicate in its next report that progress has been achieved in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Djibouti, Egypt, Iraq, Jordan, Lebanon, Malta, Morocco, Sri Lanka.

Convention No. 107: Indigenous and Tribal Populations, 1957

Bangladesh (ratification: 1972)

1. The Committee notes with interest the more detailed report communicated by the Government in reply to its previous comments, as well as other documentation including the Government's report to the United Nations Committee on the Elimination of Racial Discrimination, and the 1991 report of the Chittagong Hill Tracts Commission which has been submitted to the United Nations.

2. The Committee notes the Government's statement in reply to its previous observation that there is no continuing conflict in the Chittagong Hill Tracts (CHT) region of the country except for sporadic incidents attributable to armed gangs from neighbouring countries, and that both tribals and non-tribals are the victims. The Committee also notes the statement that the local law enforcement agencies take appropriate measures for the protection of the life and property of the inhabitants, and that the District Local Government Councils, functional since 18 February 1989 (Acts Nos. 19, 20 and 21 of 1989), have contributed to improving the law and order situation. It also notes that the reports of the District Local Government Councils will be sent in due time.

3. The Committee notes, however, that it continues to receive allegations from various sources, including information submitted to United Nations bodies, of persistent human rights violations in this region including detailed allegations that on 10 April 1992 the tribal village of Logang (about 600 houses) was destroyed by non-tribal settlers, civilian defence forces (Village Defence Party, VDP) and paramilitary forces (Ansars). Some reports state that hundreds of tribal villagers were killed and that the military took no preventive action. The Committee notes that an inquiry commission into the Logang incident concluded that those responsible were the non-tribal settlers and security forces, and that the number of persons killed was much lower. The Committee recalls its earlier recommendation to the Government to conduct impartial and thorough investigations of human rights violations, with tribal participation. The Committee emphasizes that it treats such reports with caution, but remains concerned that the life and property of the tribal population are not adequately safeguarded as prescribed by Convention No. 107 and provided in the Constitution of Bangladesh. The Committee would be grateful if the Government would provide information on the conditions under which the inquiry was conducted, the extent of tribal participation, measures of reparation which may have been made to the affected tribals, and any sanctions taken against the persons found to be responsible.

4. Legislation in force. The Committee recalls that in its previous observation it referred to the concerns of the tribal representatives over the possibility of repeal of the Chittagong Hill Tracts Regulations (No. 1 of 1900). The Committee notes from the Government's report the statement that the provisions of the Regulations regarding special rights and privileges enjoyed by tribals have been incorporated in the Hill District Local Government Council Acts (Acts Nos. 19, 20 and 21 of 1989) and in the Hill Districts

(Repeal and Enforcement of Law and Special Provision) Act, 1989. Please indicate whether the 1989 Act has now come into force, and the mechanisms applicable to resolve any divergencies that may arise between the 1900 Regulations and the Act. Please also indicate whether the 1900 Regulations are still in force.

5. Articles 11 to 14 of the Convention: Power of the Local Government Councils to allocate land rights. The Committee recalls that in its previous observation it referred to information received from a non-governmental organization stating that the new local government structures would have the power to regulate the allocation of less than 10 per cent of the total area of the CHT; this would imply greatly reduced powers by the councils - which have a tribal majority - to control immigration into these areas. The Committee notes with interest the statement in the report that this information was not correct, and that the area under the control of the Local Government Councils, under section 64 of the Act, is over two-thirds of the total area (excluding forest land and reserved forest, as well as lakes, the size of which are said to have been overstated by the non-governmental sources). The Committee would be grateful for information on the allocation of lands actually made so far in the CHT since the District Councils took up their functions.

6. The Committee notes the information that the cadastral survey of land ownership and rights in the CHT is to be resumed in 1993. The Committee recalls that some 45,000 tribal people have taken refuge in India as a result of the continuing conflict in the CHT, of whom the Government states in its report some 28,413 have now returned to the region with an option to go back to their original homes or to resettle in villages. It also recalls that many thousands of non-tribals have been settled in the Hill Tracts area, often on the lands traditionally occupied by tribal families. The Committee expresses its concern that a cadastral survey which is conducted under these conditions might have adverse effects on the land rights of the tribal people. The Committee notes further that the cadastral survey was postponed at the request of the tribals in the context of the ongoing negotiations with the Jana Sanghati Samity (JSS), a political party of the tribal people. It therefore hopes that appropriate procedures will be established to resolve land claims by tribals for the recovery of traditional lands, whenever necessary, and that the refugees in India will be repatriated to their homes prior to conducting the cadastral survey in the CHT area.

7. Progress in achieving a negotiated settlement of the conflict and return of tribal refugees. The Committee notes from the report the statement that the Government's efforts have fostered confidence among the tribal population of the Government's intention to: (i) protect their fundamental human rights and distinct ethnic and cultural identity and existence; and (ii) to find a durable political solution to the problems in the region. The Committee notes, as mentioned above, the return to the CHT of many of the tribal refugees. The Committee notes from the report that there is a bilateral agreement between India and Bangladesh to arrange a speedy repatriation of the tribal population of the CHT. Please provide detailed information on the bilateral agreement, its present status,

the number of tribals to be repatriated, and any measures taken or contemplated to involve the people concerned in the discussions.

8. Situation of other tribal populations of Bangladesh. In response to the Committee's repeated request for information on the measures taken by the Government in relation to other tribal groups in the country, besides those in the CHT area, the Government has referred to its 1989 report; however, as the Committee pointed out in its previous observation, that report does not contain the information requested. The Committee notes, however, that the question raised in the previous observation concerning a conflict between the Mandi tribal group and the Forest Department is under investigation. The Committee also notes from a report by the Minority Rights Group that several cases have been brought by the Koch tribal group of the Madhupur Forest against the Forest Department. Please provide details of any investigations of this nature which may be under way, as well as more detailed information on the present position of the tribal people outside the Chittagong Hill Tracts as requested previously.

9. The Committee is raising additional points in a request addressed directly to the Government.

Brazil (ratification: 1965)

The Committee recalls the observation it made at its 1991 session and the discussion which took place in the Conference Committee that year. While no report was requested for the present session, the Committee has nevertheless become aware of renewed serious problems among the indigenous populations of the country - especially the Yanomami of the northern part of the country - and would therefore request the Government to furnish a report next year.

The Committee recalls that the situation of the Yanomami has been the subject of comments by the Committee for some years now, since their lands were invaded by thousands of independent gold miners (garimpeiros), bringing disease, environmental destruction and other problems into these previously isolated areas.

The Committee now notes that, although the Government had begun to take measures to expel garimpeiros from Yanomami territories, some months ago a new wave of invasions began and the Government did not take immediate action to restrain it. It notes from recent news reports that action was taken in early March 1993 to expel several thousand garimpeiros, but that this has affected only some of the miners actually in these areas. The Committee urges the Government to take urgent measures to correct this situation, and to report in detail on the measures it has taken.

The Committee recalls that in its previous observation it noted that a Yanomami Health Plan was planned to restore the health of these vulnerable people, who have been badly affected by the diseases brought by the miners and by the environmental degradation caused by their mining activities. It now notes, from a large variety of sources, that the Health Plan has been virtually suspended for lack of funding and that it suffers from many other organizational problems, so that in fact little or no health assistance is being provided to these peoples. Again the Committee urges the Government to take immediate action and to report on the action taken.

In addition, the Committee is disturbed by persistent reports that forced labour is being imposed on Indians in connection with the presence of the garimpeiros in these areas. It hopes that the Government will indicate in its next report whether it has investigated this situation, and any measures it may have taken as a consequence.

Finally, the Committee recalls that it made comments in its previous observation on the establishment of a new indigenous policy in the country, including the adoption of new legislation on the subject, and requests the Government to provide the latest information on the situation in this regard.

[The Government is requested to report in detail for the period ending 30 June 1993.]

Colombia (ratification: 1969)

1. The Committee recalls that the Government has ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and that its first report on that Convention is due to be examined by the Committee at its next session.

2. The Government has, however, communicated a detailed report under the present Convention, which provides information on a number of significant developments in the country. These include a re-examination of legal and administrative provisions resulting from the ratification of Convention No. 169, the formulation of a new indigenous policy in consultation with indigenous communities, court decisions relying on Convention No. 169 to order protective measures for indigenous communities, and other matters.

3. Under these circumstances, the Committee has raised the most urgent of these questions in the request it is addressing directly to the Government, and will consider the rest of the detailed information provided when it examines the Government's first report on Convention No. 169 at its 1994 Session. It hopes that the Government will provide additional information on that occasion on developments which may have taken place since the report on Convention No. 107 was sent.

India (ratification: 1958)

The Committee notes that the Government's report has not been received. It recalls the detailed discussion whch took place on this question in the Conference Committee in 1991, during which the Government provided considerable information, and the Conference Committee urged the Government to supply a detailed report as requested by the Committee of Experts.

The Committee notes also the developments which have taken place since the application of the Convention by India was last considered. It welcomes the discussions between the Office and the Government concerning the possibility of technical cooperation to benefit the tribal people of the country, which should also improve the application of the Convention, and asks to be kept informed of further developments.

It also notes, however, the publication in early 1992 of Sardar Sarovar: Report of the independent review, a report commissioned by the World Bank to examine the execution of the Sardar Sarovar dam and power project to which the Committee has referred on many occasions. The independent review has concluded that there have been many problems in the planning and execution of the project, with effects particularly on the people displaced by it, many of which coincide with the concerns which have been expressed by the Committee in recent years. The independent review cites Convention No. 107 extensively as a standard which has been ratified by India and which has not been respected. The Committee therefore hopes that the Government will provide information in its report on the effect given to the findings and recommendations in this report, as well as on the questions raised in its previous comments, which read as follows:

> 1. The Committee notes the discussion of the application of this Convention in the Conference Committee in 1990, and the information provided by the Government on that occasion concerning the questions raised in the Committee's previous observation. A brief further report on this question was also received during the week the Committee's session opened, and a report on the issues raised in the request addressed directly to the Government in 1990 was also received only very shortly before the Committee's session began.
>
> 2. The Committee has referred in comments addressed directly to the Government to a number of important questions affecting the 51 million tribal people in the country. It notes in that request that on a number of issues the Government has not provided information on the situation in practice, but has restricted itself to a reference to earlier reports. It hopes that in its next report the Government will make every effort to provide detailed information, and that it will submit a report in time for the Committee to examine it fully before its session begins.
>
> 3. The Sardar Sarovar Dam and Power Project. The Committee of Experts and the Conference Committee have had a dialogue about this subject for several years. The situation at issue is the construction of a large hydroelectric dam project, and the consequent removal from their lands of some 100,000 people, including some 60,000 tribals. The project is being financed in part by the World Bank. The Committee has on several occasions examined information received from the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW), forwarding studies carried out on the subject by the non-governmental organization Survival International. This information has alleged that the displacement of these tribal people is not in conformity with the Convention - in particular its Article 12 - and that the situation will become worse in the future with the planned displacement of up to 1 million more people at future stages of construction.
>
> 4. A further communication from the IFPAAW and Survival International was forwarded to the Government on 17 December

1990. In its reply received on 4 March 1991, the Government referred to the information it provided to the Conference Committee in 1990, and provided some additional information. Some additional information was also received from the World Bank, to whom the IFPAAW communication had also been sent.

5. The communication from the IFPAAW states that despite the recommendations made by the Committee of Experts in 1990, the Government has not taken any positive action to guarantee appropriate compensation for displaced persons in accordance with Article 12 of the Convention. It states also that project authorities and Government officials have increasingly been resorting to force and violence in this connection. It notes that the Japanese Ministry of Foreign Affairs decided during 1990 that it would discontinue financing of the project, because the resettlement plans for those being displaced remain inadequate. The World Bank had renewed funding until July 1991 on the finding that progress on the conditions laid down was satisfactory, and this decision was said to be a political one taken despite violations of conditions and disregard for deadlines set. The IFPAAW also alleged that the Government has not yet been able to identify sufficient and adequate resettlement land, especially for people wanting to stay in their own State of Madhya Pradesh, and that people are being moved to inadequate resettlement sites in Gujarat. Finally, the IFPAAW states that the villages that have been resettled face acute health problems and land and water shortages.

6. A communication from the World Bank in reply to the IFPAAW communication stated that the decision to extend financing was made only after an exhaustive investigation of the project performance by the Bank staff, who visited the project site and concluded that overall implementation continued to be satisfactory. It also stated that the decision was made on technical, not political, grounds. The Bank was working with the Government and project authorities to help ensure that resettlement and rehabilitation policies and programmes are properly carried out.

7. The Government stated in its communication received on 4 March 1991 that the Union Cabinet has approved the release of forest land for rehabilitation and resettlement of tribals displaced in Maharastra, subject to compensatory afforestation by the State Government, and that the Narmada Control Authority is taking steps to prepare an action plan for this purpose.

8. In the information provided to the Conference Committee the Government stated that the allegations made by the IFPAAW were too general. It also provided a considerable amount of information on the number of families in each of the three States affected and the amount of land required for their resettlement.

9. The continuing efforts being made in this connection are evident from the information received. It is less evident, however, that these efforts have yet been successful. The Committee understands from the information provided that there is still a gap between the resettlement needs of the tribal populations being displaced and the amount of land available. It

has no conclusive information on whether these lands are appropriate to the needs of these tribal populations, and whether the populations are fully compensated for the damages incurred by their displacement, but notes that non-governmental organizations both inside the country and outside have expressed very serious reservations in this regard. It hopes that information will continue to be provided on the progress achieved. It also again expresses concern, in view of the problems involved in resettling these "oustees", over the possibility of resettling some hundreds of thousands of others in future years as further stages of planned construction are implemented, in a manner which complies with the Convention's requirements.

10. The Committee recalls that the Convention recognizes rights to land which is "traditionally occupied" by tribal populations (Article 11), and that the meaning of this term in the present context has been the subject of discussion for some time. The IFPAAW has alleged that the Government is not fully compensating tribals who have traditionally occupied land to which the Government has title, especially when those tribals practice various forms of shared use, gathering of forest products and herding on these lands instead of settled cultivation. The Government has stated that the concept of traditional occupation does not apply to "encroachment" on government-owned lands, and particularly to recent encroachment; but that it has provided for compensation for displaced tribals even in cases where they have no clear traditional rights. The Committee has noted that the term "traditional occupation" is imprecise, but that the kinds of land use for which no compensation is given would appear to fall within the meaning of the term. However, the information before the Committee is not sufficiently clear to enable it to decide that traditional occupation has - or has not - been established in particular cases. In the information provided to the Conference Committee, the Government again raised the question, particularly in relation to the length of time lands would have to be occupied before the occupation could be considered traditional, but provided no additional information in this respect. The Committee therefore sees no reason to change its previous conclusions. It refers, however, to the concerns expressed in the Report of the Commissioner for Scheduled Castes and Scheduled Tribes (1987-89), over the denial of land rights to tribals who have long occupied land to which the Government has asserted title; these concerns correspond to the position expressed by Survival International and the IFPAAW, and to the concerns expressed by the Committee.

11. As concerns the health of the tribal populations that have been resettled, the Committee noted previously that steps were being taken to provide health care to displaced tribals in Gujarat, and the Committee requested information on steps taken in Madhya Pradesh and Maharastra, the other two States affected. As the Government has provided no additional information in this connection, the Committee requests it to do so. It would also

appreciate receiving information on the environmental concerns raised previously.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Paraguay (ratification: 1969)

The Committee notes that the Government's report has not been received.

The Committee notes that since the Government's last report and its comments in its meeting of 1991 a new Constitution has been adopted which includes specific provisions on the rights of indigenous people. Furthermore, the ILO organized a seminar-workshop in Paraguay in October 1992 with a view to the possible ratification of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Lastly, the Committee has received information on the conclusion of an agreement to establish a forest reserve in Mbaracayú which could affect the traditional rights of the Aché Indians in the same region. It asks the Government to provide particulars of this matter in a direct request.

The Committee is bound to repeat its previous observation drawing the Government's attention to the possibility of requesting ILO technical assistance, which read as follows:

> The Committee notes, both from the Government's report and from other information available, that neither the National Indian Institute (INDI) nor any other government agency appears to have a global responsibility for questions concerning indigenous affairs. In fact, according to the report, INDI is only just beginning to be involved in the planning and execution of large-scale development projects (financed by the Inter-American Development Bank and the World Bank among others), which have "indigenous components" and affect these populations in the most direct manner. This refers in particular to large-scale hydroelectric and other projects, sometimes involving the displacement and resettlement of indigenous communities.
>
> It is evident at the same time from the information available that non-governmental organizations, including religious missionary groups of several denominations and others, work in indigenous areas almost without supervision. It appears that they sometimes exercise extraordinary authority over the communities within their area of influence, and there have even been allegations of forced conversions and detention against the will of those concerned.
>
> This information gives rise to a concern in the Committee over whether the Government is in fact "developing coordinated and systematic action for the protection of the populations concerned" (Article 2 of the Convention), whether it has met the requirement to "create or develop agencies to administer the programmes involved" in applying the Convention (Article 27), and whether the "improvement of the conditions of life and work and level of education of the populations concerned" are being "given high priority in plans for the overall development of areas

> inhabited by these populations" (Article 6). The Committee hopes that the Government will provide information in this respect in its next report, including information on the "indigenous components" of projects financed by the Inter-American Development Bank and the World Bank and the manner in which they are negotiated and implemented. It suggests that technical assistance from bodies such as the International Labour Office, the Inter-American Indian Institute or others, may be of help in putting into place an adequate government structure for the management of indigenous affairs.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Colombia, El Salvador, India, Iraq, Pakistan, Paraguay.

Convention No. 108: Seafarers' Identity Documents, 1958

Liberia (ratification: 1981)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Article 4, paragraph 3(b), (c), (d) and (f), of the Convention. The Committee recalls that the seamen's identity and service document appears to contain no provision for the information required under the terms of this Article (date and place of birth, nationality, physical characteristics and, in the absence of signature, a thumbprint). It hopes that it will be possible to add these particulars and that the Government will give details.

* * *

In addition a request regarding certain points is being addressed directly to Angola.

Convention No. 110: Plantations, 1958 [and Protocol, 1982]

Requests regarding certain points are being addressed directly to the following States: Cuba, Ecuador, Nicaragua, Philippines, Uruguay.

Convention No. 111: Discrimination (Employment and Occupation), 1958

Algeria (ratification: 1969)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes the adoption of Act No. 90-11, of 21 April 1990, respecting labour relations, which repeals certain texts (including Decree No. 85-59 of 1985 to establish model conditions of service of workers in public institutions and administrations, and Act No. 78-12 of 1978 to establish the general conditions of employment of workers), which had been the subject of its previous comments as regards workers' political obligations.
>
> The Committee notes with interest that, in accordance with section 17, which is contained in Title III, Chapter II: Conditions and Procedure for Recruitment, of Act No. 90-11, any provision drawn up as part of a collective agreement or contract of employment of such a nature as to discriminate in any way between workers on grounds including political belief shall be null and void.
>
> 2. With reference to its previous comments, the Committee once again hopes that measures will be taken to make formal reference to religion among the grounds upon which it is prohibited to discriminate in respect of employment and occupation.
>
> 3. The Committee also notes that section 17 of Act No. 90-11 is intended to prohibit any provision drawn up as part of a collective agreement or contract of employment that is of such a nature as to discriminate during recruitment. It hopes that the Government will take the necessary measures to ensure that any discriminatory practice, under the terms of the Convention, is also eliminated between workers during the course of employment, in respect of both terms and conditions of employment and the termination of the employment relationship.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Angola (ratification: 1976)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes that section 21 of Act No. 12/91 of 6 May 1991 to revise the Constitution, which states that all citizens are equal before the law and enjoy the same rights and duties without distinction as to colour, race, ethnic origin, sex, place of birth, religion, educational level or economic and social status, makes no reference to political opinion. The Committee points out that it has already drawn attention to this omission from section 8 of the Constitutional Act of 1975 and

section 2 of the General Labour Act, and that the Government stated in 1985 that the Committee's comments had been brought to the attention of the People's Assembly. The Committee therefore hopes that the Government will be able to take the necessary measures to include in the national law provisions prohibiting any discrimination in employment on the basis of political opinion and that it will indicate the measures taken or contemplated to that end.

2. In its previous request, the Committee noted that section 65(e) of Decree No. 17/89 of 13 May 1989 issuing the statutes of the Agostinho Neto University included among the functions and powers conferred on the University Council that of aiming to ensure the political and ideological training of university administrative staff and graduates. It noted that section 20 of Decree No. 37/89 of 22 July 1989 to approve the regulations governing postgraduate courses provided that candidates for admission to higher education courses abroad must be selected by the Executives' Division of the Central Committee of the Labour Party. The Committee noted further that section 30 of Decree No. 55/89 of 20 September 1989 to approve the rules governing the teaching staff of the University provided that the duties of teachers should include assisting students in their political and ideological training. The Committee notes the Government's statement that comprehensive and substantial reforms are in progress concerning, in particular, the education sector. It notes with interest that section 18 of Decree No. 37/89 of 22 July 1989 has been amended by Decree No. 28/91 of 5 July 1991 and that candidates for higher education courses abroad will henceforth be chosen by the Ministry of Education. The Committee reiterates the hope that, in the process of this comprehensive reform of education, the Government will take the necessary measures to eliminate any discrimination on the basis of the criteria spelt out in Article 1, paragraph 1(a), of the Convention, and in particular of political opinion so far as access to education and training is concerned. It asks the Government to keep it informed of the progress made in that field.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Argentina (ratification: 1968)

In its previous comments, the Committee referred to the provisions of sections 8(g) and 33(g) of the Public Service Act No. 22140 of 1980, providing that entry into the national public administration can be refused and public servants can be dismissed for belonging, or having belonged, to groups advocating the denial of the principles of the Constitution or for adhering personally to a doctrine of this kind. The Committee notes the Government's indication that there still has been no change with regard to the provisions of Act No. 22140 of 1980 concerning the basic terms and conditions of employment in the public service.

The Committee once again expresses the hope that sections 8(g) and 33(g) of Act No. 22140 will be explicitly repealed so as to avoid all uncertainties and trusts that the Government will do its utmost to ensure that the adoption of the necessary measures is delayed no further.

Australia (ratification: 1973)

The Committee notes with interest the detailed information contained in the Government's reports, in particular the information on further progress achieved in implementing the Convention at both the state and federal levels.

1. In particular, the Committee notes the adoption of new federal legislation to further the implementation of the Convention: (a) the Human Rights and Equal Opportunity Commission Regulations, 1989, which declare additional grounds of discrimination for the purposes of the Human Rights and Equal Opportunity Commission Act, 1986, to be age, medical record, criminal record, impairment, marital status, mental, intellectual or psychiatric disability, nationality, physical disability, sexual preference or trade union activity; (b) the Law and Justice Amendment Act, 1990, which removes from the Racial Discrimination Act, 1975, the requirement that race be the dominant reason for an action to be found unlawful, introduces a vicarious liability provision and extends that Act to cover situations of indirect discrimination; (c) the Sex Discrimination Amendment Act, 1991, which replaces the previous exemption for superannuation and insurance in the principal Act with a provision exempting only such schemes as are based on reasonable actuarial or statistical data; and (d) the Disability Discrimination Act, 1991, which makes direct and indirect discrimination on the grounds of disability unlawful in a number of areas including employment, education, access to premises and the administration of Commonwealth laws and programmes and introduces a standard of unjustifiable hardship on the basis of which the Human Rights and Equal Opportunity Commission may consider cases concerning the requirement to accommodate the circumstances of people with disabilities.

2. The Committee takes note of the information supplied by the Government on the adoption of a new Equal Pay Policy in March 1992 which has the aim of ensuring that work of equal value is remunerated at an equal rate of pay, the establishment of an Equal Pay Unit within the Department of Industrial Relations and the implementation of the process of award restructuring. With regard to these new developments, the Committee refers to its comments under Convention No. 100.

3. The Committee is raising other points in a request addressed directly to the Government.

Barbados (ratification: 1974)

The Committee notes that the Government's report contains no reply to its previous comments. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that, following the Government's earlier indication on the unlikely prospect of adoption of the Employment and Related Provisions Bill, prepared in 1978 in order to give effect to the Convention, the Committee has requested information on measures taken, including any legislative provisions adopted, to apply the Government's declared policy of non-discrimination against women and to prohibit discrimination in employment and occupation in accordance with the Convention. The Committee trusts that the Government will be able in its next report to indicate further progress in this field.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Belarus (ratification: 1961)

The Committee notes the information contained in the Government's report in reply to its previous request.

1. The Committee notes with satisfaction the adoption, on 30 May 1991, of the Act of the Republic of Belarus on Employment which defines the fundamental principles of the State's employment policy and, in section 4, guarantees to all able-bodied citizens equal opportunities in the exercise of their right to work and free choice of employment irrespective of race, sex, religious attitude, age, political conviction, nationality and social position in accordance with the grounds set out in Article 1, paragraph 1(a), of the Convention.

2. The Committee notes that a new Labour Code was adopted on 15 December 1992 and communicated to the Office the last week of February 1993. The Committee will be able to examine it in detail only when a translation of the full text is available. However, it can already note that, in section 6 of the Code, discrimination is prohibited in hiring and in labour relations on the grounds of nationality, sex, race, language, religious or political convictions, membership or non-membership of trade unions or other social organizations as well as on grounds of physical and mental disabilities that do not preclude fulfilment of the required duties of the job. The Committee would be grateful if the Government would provide information on any measures taken or contemplated to extend the grounds prohibiting discrimination to include social origin, as well as to extend the prohibition of discrimination to access to training and to particular occupations, terms and conditions of employment and security of employment in accordance with the terms of the Convention.

Brazil (ratification: 1965)

1. Having noted in its previous comments that the reports of the Government merely quoted the provisions of the national legislation and stated that there was no need to take educational or other measures or to collect statistics as there was no discrimination in employment and occupation in the country, the Committee had observed that a State which ratifies the Convention undertakes not only to ensure that national legislation is in conformity with the Convention, but also to pursue an active policy and take practical measures to ensure equality of opportunity and treatment in the employment and activities under its control, and to promote this principle in respect of other employment and activities.

In its last report, the Government refers to the existence of situations of *de facto* discrimination in employment and in the distribution of income between men and women and between whites, blacks and mulattos. The report contains statistics documenting such discrimination, which is even more pronounced for black women and, among the factors responsible for this situation, mentions the application of austerity programmes of structural adjustment imposed on the Government, which aggravated social imbalances.

Similar information is contained in communications which were received in September and October 1992 from the Trade Union of Bank Employees of Florinaopolis and Regiao and the United Workers' Central (CUT). These communications, which were transmitted to the Government for its comments, referred to statistical data collected by the Center for Research on Labour Relations and Inequalities (CEERT) on racial inequalities in the labour market as evidence of non-compliance with the Convention.

The Committee takes note of this information. It hopes that the Government will supply its comments on the communications referred to above so that they may be examined at the Committee's next session. It also requests the Government to indicate the measures taken or envisaged to study further the extent and causes of inequalities based on race and sex and the positive measures taken or envisaged in the fields mentioned in *Article 1, paragraph 2, of the Convention* so as to ensure and promote equality of opportunity and treatment in accordance with the Convention. In particular, the Committee would appreciate information on the policies and measures which are applied by the Government in the sectors of employment under its control, including statistics, broken down by race and sex, on the composition of the workforce in the public sector, by occupations and levels of responsibilities.

2. The Committee notes from a report presented to the Federal Senate by a Joint Parliamentary Committee of Investigation on the Incidence of Massive Sterilization of Brazilian Women that 27 per cent of Brazilian women of reproductive age were sterilized in 1986 and that numerous employers, with impunity, require women seeking employment or wishing to keep their jobs to furnish certificates attesting to their sterilization.

The Committee observes that this requirement constitutes discrimination under the terms of the Convention, to the extent that it is imposed on individuals of a particular sex who must furnish proof of their sterility in order to be employed. It trusts that the Government will take all appropriate steps to put an end to these practices.

Noting from the Government's report that the Rapporteur of the Labour Administration and Public Service Commission has approved the draft texts of Bill No. 229/91 (providing that it is unlawful for employers to require a candidate for employment to present a medical certificate attesting to her sterility or pregnancy) and Bill No. 677/91 (stating that it is unlawful for an employer or for a person acting on the employer's behalf to perform a physical examination of any female official), the Committee requests the Government to provide information on the status of Bills Nos. 229/91 and 677/91 as well as copies of any texts adopted, and on the measures taken to ensure their strict enforcement.

The Committee also notes with interest Law No. 11081 of 6 September 1991 and Decree No. 30497 of 6 November 1991, of the Municipality of Sao Paulo, which empower the Municipality of Sao Paulo to impose sanctions on commercial or industrial establishments and entities, as well as civil associations or societies which have restricted a woman's right to employment, in particular, by requiring a pregnancy test or proof of sterilization in order to be hired or to remain employed or by requiring gynecological examinations on a periodic basis as a condition for maintaining employment, and by discriminating against married women or mothers in employment selection or dismissal. The sanctions, which may be imposed cumulatively, comprise a warning, a fine, temporary suspension of operations or permanent withdrawal of the authorization to operate. The Committee requests the Government to supply information on the practical application of Municipal Law No. 11081 of 6 September 1991 and Decree No. 30497 of 6 November 1991, including the sanctions imposed where an employer has asked women for proof of sterility or pregnancy in order to be employed. The Committee would also be grateful to receive information on other legislation, and its enforcement, adopted at the state and local levels expressly prohibiting employers from requiring current and prospective women employees to furnish proof of sterility or pregnancy.

3. The Committee notes the Government's statement in the report that, in view of the serious repercussions of the recession on the labour market, there is a clear need to adopt a general employment policy in conjunction with a policy for promoting greater awareness of the rights of the citizens. Recalling that under Article 3(b) of the Convention, a ratifying State must promote such educational programmes as may be calculated to ensure the acceptance and observance of the policy of equality of opportunity and treatment in employment, the Committee requests the Government to provide information on the measures taken or envisaged, both at the federal and state levels, to increase awareness and ensure observance of the principles of non-discrimination and of equality protected by the Convention.

[The Government is asked to supply full particulars to the Conference at its 80th Session and to report in detail for the period ending 30 June 1993.]

Bulgaria (ratification: 1961)

The Committee notes the report of the Government and the information supplied in reply to its previous comments.

Legislative provisions concerning discrimination in employment

1. The Committee notes that the Labour Code Amendment and Supplement Act, No. 100, was adopted on 9 December 1992 and communicated to the Office in February 1993. The Committee will be able to examine it in detail only when a translation of the full text is available. Nevertheless, the Committee can already note with satisfaction that section 8(3) of the Act provides that in exercising labour rights and obligations no discrimination, privileges or restrictions shall be allowed on grounds of nationality, origin, sex, race, political convictions, religious beliefs, membership of trade unions and other social organizations and movements and social and material status, thus covering all the grounds set out in Article 1, paragraph 1(a), of the Convention including political opinion and national extraction.

Constitutional Court decisions concerning equality of opportunity and treatment

2. The Committee notes from a Constitutional Court ruling (No. 8 of 27 July 1992) that under section 9 of the Preceding and Concluding Provisions of the Banks and Credit Activity Law, No. 25 of 1992, "persons who have been elected members to central, county, district, town and municipal leading bodies of the Bulgarian Communist Party, Dimitrov Communist Youth League, the Fatherland Front, the Union of Veterans in the Struggle against Fascism and Capitalism, the Bulgarian Trade Unions and the Bulgarian Agrarian Party or have been employed full time as high-ranking officials at the Central Committee of the Bulgarian Communist Party, as well as staff, and paid or non-paid collaborators of State Security may not be elected to the Banks' Boards and may not be employed under section 7" over the next five years. This provision was found by the Court to be contradictory to ILO Convention No. 111, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and to article 6(2) of the Constitution, which prohibits any privileges or restrictions of rights on specified grounds including convictions and political affiliation. The Court, holding international obligations to be indispensable to national law and to have priority over conflicting provisions of national legislation, found the above restriction of the right to hold a high-ranking position in the governing bodies of banks to constitute discrimination within the meaning of Article 1 of Convention No. 111 and thus not to be in conformity with the terms of an international agreement to which Bulgaria is a party.

3. The Committee also notes from a Constitutional Court ruling (No. 11 of 29 July 1992) that, under section 6 of the Act Amending the Pensions Act of 12 June 1992, a new section was added to the Pensions

Act to exclude any duration of a person's employment in a full-time management position in specified political bodies (the Bulgarian Communist Party, the Fatherland Front, the Dimitrov Communist Youth League, the Fighters against Fascism and Capitalism) as counting for pensionable service. The Court found this section to be in violation of the guaranteed right to social security provided in article 51(1) of the Constitution. In addition to the Court's conclusion that within the effective legal framework a pension is still employment-related and thus the existence of other non-employment correlatives, characteristics or grounds for pension entitlement does not eliminate the link between employment and the social security relationship, the Court stated that in any case the general categorization of such exclusions creates an arbitrary approach that goes beyond the sphere of fairness and lawfulness.

4. The Committee notes the above two Constitutional Court decisions with interest and requests the Government, in its next report, to provide information on the implementation of these two rulings. It would also be grateful if the Government would provide copies of the two laws examined by the Court and of any other legislation which contains similar restrictions on access to employment or particular occupations or in terms and conditions of employment, as well as any relevant Court decisions concerning such legislation.

Measures directed at improving the position of the minority of Turkish origin

5. With reference to its previous observations concerning former measures aimed at suppressing the cultural identity of the minority of Turkish origin in Bulgaria, which had been the subject of comments received in 1989 from the Confederation of Turkish Labour Real Trade Unions, the International Confederation of Free Trade Unions and the International Organization of Employers, the Committee recalls that in 1990, 1991 and 1992 it had taken note of various measures, including: the adoption of a decision by the Council of State and the Council of Ministers and a statement by the National Assembly to put an end to the above-mentioned violations of the principle of equality; the adoption of the Political and Civil Rehabilitation of Repressed Persons Act aimed at restoring the rights of persons who had been wrongfully repressed on account of their origin, political or religious convictions; and the adoption of various other Acts and programmes to enable persons who had suffered discrimination to be able to obtain redress. The Committee had asked the Government to provide further information on the implementation of the new policies and measures and on the results achieved.

6. The Committee recalls that article 36(2) of the Constitution provides that citizens whose mother tongue is not Bulgarian have the right to study and use their own language alongside the compulsory study of the Bulgarian language. It also recalls that the National Education Act of 18 October 1991 and the Council of Ministers Decree No. 232 of 29 November 1991 on mother tongue study in the municipal schools provide for the right to study one's mother tongue outside state schools and, on a test basis, as an optional subject inside

municipal schools in ethnically mixed communities during the school year 1991-92. The Committee again requests the Government to provide information on the holding of such classes for Turkish-speaking students, the evaluation of the optional mother tongue courses including statistics on the number of students involved, its continuation and extension to languages other than Turkish as well as information on any other measures taken to overcome the problem of low educational levels in the Turkish communities.

7. With reference to its previous comments concerning the adoption of the Political and Civil Rehabilitation of Repressed Persons Act, on 25 June 1991, which restores the rights of persons who had been wrongfully repressed on account of their origin, political or religious convictions between September 1944 and November 1989, the Committee notes with interest the adoption of the Council of Ministers Decree (No. 139 of 21 July 1992) on the application of section 7 of the above Act and the adoption of the Council of Ministers Decree (No. 249 of 9 December 1992) on the adoption of an Ordinance relating to the application of section 4 of the above Act. According to the Government's report, the two Decrees enable the application of the Act by setting out the specific procedural requirements, the categories of compensation and the amounts of compensation which are intended to cover losses incurred in employment and occupation. The Government reports that, in order to receive compensation, persons must first apply to the appropriate ministries for attestations of their arrests, internments and sentences, then lodge written complaints with bodies of the Ministry of Finance. Furthermore, a Central Committee and regional committees for Political and Civil Rehabilitation have been established to help investigate and determine the circumstances of cases. The Committee requests the Government to supply copies of the two Decrees with its next report and to provide information on the application in practice of the Act including the number of people who have applied for compensation and the number who have received it. The Committee also requests the Government to indicate whether any measures of assistance are being given to help the repressed persons who were dismissed from their employment or occupation be reinstated or find other employment.

8. With regard to measures taken to assist persons of Turkish origin who returned to Bulgaria after having left the country as a result of the earlier policy, the Committee recalls that more than 220,000 such persons who had left the country had returned between June 1989 and June 1990 facing major problems of housing, education and employment. The Committee recalls that, following a first unsuccessful initiative to solve the social problems of the returnees, the Government had adopted a new approach through the adoption of Decree No. 170 of 30 August 1990 which was aimed at providing restitution of real estate to the Turkish people who had been forced to sell. The Government reports that, as a result of the claims of the bona fide purchasers of the real estate and their filing a case before the Constitutional Court, the Government has reversed its approach and adopted the Restitution of the Ownership of Real Estate to Bulgarian Citizens of Turkish Origin who Applied to Leave for the Republic of Turkey and Other Countries in the May-September 1989 Period Act, 1992, which is envisaged to restore the property to the

purchasers and to compensate the seller returnees. The Committee requests the Government to provide a copy of the Constitutional Court decision, as well as a copy of the new Act and to indicate the manner in which the Act is being applied. It further draws the Government's attention to the provisions of Decree No. 170 which had provided for six months' compensation to those returning workers who had been dismissed from their employment and who are registered as unemployed but not receiving compensation pursuant to other laws. It requests the Government to indicate whether these provisions remain in force, and if not whether any other measures have been taken so as to continue to provide such unemployment compensation to the returnees.

9. The Committee notes from the Government's report that, as a result of exacerbated recession and rising unemployment, about 120,000 people emigrated from the country in 1990-91 and that a fresh wave of emigration to Turkey occurred in 1992. Note is also taken of the relief money paid by the Government to workers who applied to leave for Turkey. The Committee requests the Government to indicate whether any special measures are being taken or are contemplated to assist persons of Turkish origin who wish to stay and work in Bulgaria, in particular the returnees, in obtaining access to vocational training, employment or to particular occupations, including any measures taken by employment placement offices. The Committee also refers to its comments below.

General measures to promote equality

10. The Government reports that increasing negative economic trends and rising unemployment make the adoption of appropriate measures to promote equal opportunity amongst various groups difficult, particularly given the manifest regional irregularity of unemployment. The Ministry of Labour and Social Affairs has undertaken studies on unemployment that reveal that the municipalities with ethnically mixed populations comprise the majority of those which are having the most severe economic and employment difficulties. Noting this situation, the Committee welcomes the efforts being undertaken by the Government to attempt to address the problems of particularly vulnerable groups, such as through the adoption of the basic principles of the policy of the Ministry of Labour and Social Affairs which specifically include special protection to ensure employment for vulnerable groups in the labour market and prohibition of discrimination in job searches; the development of the programme for literacy courses, training and employment in quarters with ethnically mixed populations in consultation with the Confederation of Labour and the Confederation of Independent Trade Unions; the programmes for restructuring and ensuring alternative work in the Madan and Rudozem Municipalities, which are ethnically mixed; the employment programme in Velingrad; and the other programmes for the disabled and young persons. The Committee requests the Government to provide information on the implementation of these programmes and on their impact in reducing the disproportionate economic burdens on the racial, ethnic and religious minority groups in the country in terms of their access to vocational training, access to employment and to particular occupations, terms and conditions of work and security of

employment. The Committee also requests the Government to indicate the steps taken to foster understanding and tolerance between various groups of the population.

11. The Committee notes that the Human Rights Committee has replaced the previously existing Human Rights and Ethnic Issues Committee as a body of the Grand National Assembly and that it has the main functions of reviewing bills, draft decisions, declarations and addresses, preparing reports and taking stands on them. The Committee would be grateful if the Government would continue to submit information in future reports on the activities of the Human Rights Committee that are related to the application of the Convention.

12. The Committee requests the Government to provide information on measures taken or contemplated to promote equality of opportunity and treatment between women and men and the results obtained with regard to access to vocational training, access to employment and to particular occupations, terms and conditions of employment and security of employment.

Burkina Faso (ratification: 1962)

With reference to its previous comments, the Committee notes with interest that the new Constitution of 11 June 1991, in article 1(3) bans all forms of discrimination, in particular on the grounds of race, ethnic origin, region, colour, sex, language, religion, caste, political opinion, wealth and birth in accordance with Article 1, paragraph 1(a), of the Convention. It notes, however, that article 19 of the Constitution prohibits discrimination in employment and remuneration on grounds of, specifically, sex, colour, social or ethnic origin or political opinions, without mentioning religion. Nevertheless, in view of the fact that this ground is included, along with the others listed in the Convention, in section 1(3) of the preliminary draft Labour Code, which bans all discrimination in respect of employment and occupation, the Committee hopes that this preliminary draft will be adopted in the near future. It also hopes that the next report will indicate the progress achieved in this respect.

Canada (ratification: 1964)

The Committee notes the detailed information supplied by the Government in its report and attached documentation, in particular the information on the practical application of the British Columbia Human Rights Act, 1984, including section 13(1)(b).

The Committee notes with interest the entry into force of the British Columbia Human Rights Amendment Act, 1992, which adds "family status" and "sexual orientation" to the grounds upon which discrimination in job advertisements and in employment is prohibited, as well as the May 1992 amendment to the New Brunswick Human Rights Act which adds "sexual orientation" to the list of prohibited grounds of discrimination.

The Committee also notes with interest the HIV/AIDS policy applicable to all employees of the Public Service of Canada, providing that testing for the HIV/AIDS virus is not a condition of employment and that all government records containing HIV/AIDS-related data of a personal nature must be protected and handled in accordance with the Privacy Act. It also notes with interest that courts have indicated that HIV status cannot be used as an automatic ground for dismissal from employment and have recognized HIV and AIDS as disabilities under the Canadian Human Rights Act, the Canadian Charter of Rights and Freedoms, as well as provincial human rights legislation. The Committee requests the Government to continue supplying copies of court decisions and any new federal and provincial legislation expressly specifying AIDS or HIV status as a prohibited ground of discrimination in employment, and to inform it of other measures taken or envisaged to promote the adoption by enterprises of HIV/AIDS policies which are consistent with the principles of the Convention.

Chile (ratification: 1971)

Further to its 1992 observation, the Committee takes note of the statement of the Government representative to the Conference Committee in June 1992, and of the information contained in the Government's last report. It also notes the observations of the Frente de Trabajadores Exonerados Compania Chilena de Tabacos S.A. y Chiletabacos S.A., dated October 1992 and of the Workers' Trade Union No. 7, División El Teniente, Codelco Chile, dated February 1993, which were sent to the Government for comments.

1. Regarding the 1991 comments from the Comando de Exonerados de Chile concerning dismissal from employment on political grounds under the military dictatorship, the Committee had noted that a draft Act had been placed before the National Congress on 9 July 1991 proposing provisional benefits for persons dismissed during the period 11 September 1973 to 10 March 1990 on political grounds from the public administration, from semi-state agencies and self-governing state enterprises, or from municipalities and for workers from private enterprises in which the public authority intervened. The Committee notes with interest that an agreement was reached on 6 June 1992 between the Ministry of Labour and the Comando de Exonerados de Chile (providing that persons dismissed for political reasons would have a right to new improvements in pensions, together with the opportunity to increase the amount, and that access to pensions would be considered together with means for easing the reintroduction of workers dismissed from the public service as well as improved access to opportunities for vocational training and small-scale enterprises) and that the draft Act was still under discussion in the Chamber of Deputies and then to be placed before the Senate. The Committee again requests the Government to supply a copy of the Act once it has been adopted and promulgated, together with information on its practical application.

2. The Committee also notes that in response to communications from the Workers' Trade Union No. 7, División El Teniente, Codelco Chile, received in February 1992, concerning the issue of dismissals

from employment on political grounds before and after 10 March 1990, the Government refers to the current passage through Parliament of the above-mentioned draft Act and the 6 June 1992 agreement as evidence of its application of the Convention.

3. The Committee notes that the Frente de Trabajadores Exonerados Compania Chilena de Tabacos S.A. y Chiletabacos S.A. disputes the scope of this draft Act and asks that it be broadened to include those workers - such as its members - who were not dismissed through the intervention of public authorities, but who suffered indirectly forced resignations after harassment due to their political beliefs in private companies. The Committee hopes that the Government will supply its comments on this communication in its next report.

4. With regard to the Constitutional Reform Act No. 18825 of 16 August 1989 which repealed article 8 of the Constitution, and the possibility of acquitting persons convicted by the Constitutional Court of committing the acts specified in article 8, the Committee notes the Government's statement that no other persons were convicted for committing an act specified in article 8 and that the Constitutional Court has thus not rendered any other judgements in this regard.

5. Regarding its repeated requests to the Government to repeal explicitly certain Decrees (Nos. 112 and 139 of 1973; Nos. 473 and 762 of 1974 and Nos. 1321 and 1412 of 1976, which grant discretionary powers to university rectors to terminate the contracts of teaching and administrative staff) which - according to the Government - were tacitly repealed and without effect and to repeal or amend section 55 of Legislative Decree No. 153, concerning the legal status of the University of Chile, and section 35 of Legislative Decree No. 149 regarding the Statutes of the University of Santiago, in order to ensure protection against discrimination on grounds of political opinion, the Committee notes the Government's statement that the Committee's requests have again been transmitted to the Ministry of Education authorities, but that no action has been taken by them. The Committee recalls the Government's previous statement that these texts can only be repealed or amended by a law passed by the National Congress and hopes that the Government will take the necessary measures to repeal explicitly or amend these texts. It asks the Government to include in its next report information on the progress achieved in this respect.

6. The Committee notes the most recent observations of the Workers' Trade Union No. 7 of Codelco Chile, dated February 1993, concerning dismissals of workers on the basis of age and hopes that the Government's comments thereon will be available for its next session.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Colombia (ratification: 1969)

The Committee takes note of the information contained in the Government's report in reply to its previous comments.

1. Application of the Convention in the national public service. For many years the Committee has been making comments on the possibility under the legislation of discriminatory measures - particularly on grounds of political opinion - liable to be used in appointments to the public service. The Committee recalls that by virtue of Decrees No. 2400 of 1968, amended by Act No. 61 of 1987, and No. 1950 of 1973, the power of free appointment and dismissal applies to many posts (for example, employees of the General Directorates of Customs and Taxes, public employees of State-run industrial and commercial establishments and part-time posts) and that this could lead to decisions being taken in an arbitrary manner, contrary to the Convention. The Committee notes with interest that the new Constitution of 1991 provides, in its article 13, that there can be no discrimination against workers on the grounds of sex, race, national or family origin, language, religion and political opinion or philosophy and requires, in its article 53, that the labour legislation which is to be adopted shall take into account certain fundamental principles, including equality of opportunity for workers. It also notes with interest article 125, paragraph 5, of the Constitution according to which political affiliation can in no way count in appointment to, advancement in or dismissal from the career public service. The Committee nevertheless notes that Act No. 61 of 1987 remains in force and that a large number of posts are therefore still excluded from the career public service and subject to free appointment and dismissal. It accordingly asks the Government to take measures to ensure that those posts subject to free appointment are limited to those higher posts involving special responsibility for the execution of government policy, as allowed by Article 1, paragraph 2, of the Convention, and to inform the Committee of any progress made in this respect.

In addition, the Committee notes that under section 1, paragraph 3, of Act No. 61 of 1987, the Government was to set rules concerning the selection, promotion and termination of employees of the General Directorates of Customs and Taxes which are excluded from the career public service. It requests the Government to supply copies of any texts which may have been adopted.

2. Application of the Convention at other levels of the public service. In previous comments, the Committee had noted, and the Government had acknowledged, that there had been cases of discrimination based on political opinion at the regional level of the public service. The Committee notes that under article 125, paragraph 1, of the 1991 Constitution "employment in State bodies and entities shall be career posts". It notes with interest the Government's statement that this means that the career public service has been opened up to extend to employment at the departmental and municipal levels, thus restricting the power of free appointment and dismissal available at those levels, and that the number of posts that could be listed as career posts has been increased. The Committee would be grateful if the Government would communicate with its next report copies of the laws or regulations which regulate the career public service at the departmental and municipal levels.

3. Discrimination on grounds of sex. In relation to the comments made by the Workers' Central Organisation (CUT) in 1989

concerning practices which are discriminatory on grounds of sex, such as negative pregnancy testing before employing a woman, lower wages for women and absence of protection against sexual harassment, the Committee notes with interest the Government's statement that the Ministry of Labour and Social Security is to issue a resolution expressly banning the requirement of a pregnancy test for obtaining employment and that it will send to labour inspectors a circular requiring them to make sure that there is no discrimination based on sex or sexual harassment. The Committee hopes that this resolution and the circular will be issued in the near future and requests the Government to furnish copies of them once they are adopted.

The Committee again expresses the hope that the Government will provide information on the practical effect given to Decree No. 1398 of 1990 which aims, inter alia, at eliminating discrimination against women in employment and provides for measures of inspection and supervision in relation to education and training.

Cuba (ratification: 1965)

With reference to its previous comments, the Committee takes note of the information supplied by the Government at the Conference Committee in June 1992 and in its last report.

1. Regarding the comments of the International Confederation of Free Trade Unions (ICFTU) alleging discrimination based on political opinion in access to education and training and to employment, the Committee notes with interest the following information:

- The Ministries of Education and Higher Training have undertaken studies with a view to removing from the student's school record elements which do not involve academic matters and a copy of the new model school record will be transmitted once it has been discussed with the parties involved.
- A draft "regulation on the implementation of the employment policy", to replace resolution No. 51 of 1988 is being discussed on a tripartite basis. The draft defines the content of the cumulative labour record and will indicate clearly that it may no longer contain information on merits or demerits.
- The "personal verification form" containing information on a worker's social conduct was used in a particular institute, which has subsequently modified its rules in this connection. The Government is conducting a general inquiry on the internal rules that have been established by some enterprises with a view to eliminating from files all information relative to moral attitudes or social conduct of workers, which are extraneous to the employment relationship.

The Committee also notes the Government's statement that the state inspection had conducted an inquiry on some of the cases mentioned by the ICFTU. In a large number of cases there was no discrimination involved and the workers' complaints were resolved through the appropriate procedures in accordance with the law. In other cases, it was not possible to identify the specific circumstances.

The Committee requests the Government to communicate, in its next report, copies of the new model school record and of the new regulations on the implementation of the employment policy to replace resolution No. 51 of 1988. It also hopes that the next report will indicate the measures taken in accordance with the Convention as a result of the inquiry on the internal rules of enterprises.

2. Regarding the comments made by the Latin American Central Organization of Workers (CLAT) in a letter dated 19 February 1992, the Committee notes the Government's statement that it had already sent a reply to the ILO on 3 February 1992. As this reply does not appear to have reached the ILO, the Committee hopes that the Government will send its reply on these comments, which concerned the dismissal of 14 university professors for having expressed their opinions, in time for examination by the Committee at its next session.

Access to training

3. With reference to the analysis by the students' collective of the student's personality and social behaviour as a criterion for the approval of applicants for admission to post-secondary or higher studies (Ministry of Education resolutions No. 1/89 of 18 March 1989 and No. 260/88 of 16 May 1988) and to the approval of the administration and trade union section as to the "moral" requirements to be met by the applicant for admission to "directed courses" (Ministry of Higher Education resolution No. 250/81 of 31 July 1981 amended in 1985), the Committee notes that, according to the Government, the introduction of the new model school records will remove all information foreign to the educational process from such records. The Committee would appreciate receiving information on the procedures used for admission to post-secondary or higher studies and to "directed courses" and on the role played in this regard by the students' collective and the trade union once the new model student records are in place. Please indicate whether the above-mentioned resolutions will remain in force.

Access to employment

4. The Committee notes the Government's statement in reply to the Committee's previous direct request that the assignment of graduates and the criteria to be used for this purpose are regulated by resolution No. 51/88, which is currently being revised and that resolution No. 702 of 1981 of the Ministry of Education, although not repealed expressly by resolution No. 51/88, remains inoperative as it predates this resolution. The Committee hopes that the amendments to resolution No. 51/88 will repeal expressly resolution No. 702/81 (which included political and ideological criteria for the assignment of graduates).

5. The Committee takes note of the Government's statement that the posts covered by Legislative Decree No. 82 of 1984 on the Work System of the State Managers and its implementing Decree No. 125 of 1984 are not those which must be controlled by the Communist Party of Cuba, in accordance with the resolution of the First Congress of the Communist Party of Cuba of 1975, and that both texts do not contain

requirements of a political nature. The Committee requests the Government to provide, in its next report, the list of the posts in the administration of the State which are controlled by the Party, in pursuance of the above resolution, and the requirements applicable to those posts.

6. Regarding the educational sector, the Committee notes that the Government is pursuing its analysis of resolution No. 590/86 regulating the system of inspection in education and Legislative Decree No. 34/1980, with the aim of adapting them to current circumstances and requirements which affect the activities they regulate and that the Committee's comments will be taken into account when elaborating the new standards in this field. The Committee trusts that the new standards being elaborated will remove from the legislation any provision which could give rise to discrimination on the basis of political opinion, in conformity with Article 3(c) of the Convention, and that the next report will indicate the progress made in this regard and contain the text of any new standards adopted.

7. Recalling that it has still not received a copy of the joint resolution No. 2 of 20 December 1989 of the Ministries of Education and Higher Education, the Committee again asks the Government to communicate the text in question.

Evaluation of workers

8. The Committee notes with interest from the Government's report that resolution No. 590/80 of 11 December 1980 (which listed certain "labour merits" based on political factors to be included in a workers' labour record) has been repealed. It would be grateful if the Government would provide a copy of the final version of the repealing resolution.

9. In previous direct requests, the Committee had noted that section 3 of resolution No. 50 of 21 September 1987 respecting the parameters for evaluating the performance of workers in journalism includes the political and ideological scope of the work performed. The Committee noted that the outcome of the evaluation affects the wage level of the workers in question since an evaluation that is not "positive" has the effect of lowering the worker's wages to the level below the current one (section 27). Section 28 provides that as a result of a non-positive biennial evaluation the employment relationship of the person concerned may be terminated. The Committee notes the Government's reply that journalists' performances are evaluated solely on the basis of their qualifications and the results of their work. Given, however, that the text of this resolution makes reference to ideological and political elements which may affect both access to, and security of, employment and conditions of employment, the Committee asks the Government to provide information, in its next report, on the measures taken or envisaged to remove these elements from the criteria for evaluation of journalists, set forth in resolution No. 50, so as to bring it into line with the stated practice of judging performance on the sole bases of qualifications and results.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Denmark (ratification: 1960)

The Committee has taken note of the information supplied by the Government in reply to its previous observation concerning the implementation of Act No. 408 of 23 June 1988, establishing the Danish International Ships Register.

The Committee notes that, in a communication dated 15 April 1992, the Danish Confederation of Professional Associations (AC) observed that Act No. 929 of 27 December 1991 on Employment Opportunities for Unemployed Members of the Workforce, which introduced a provision limiting the maximum wage of persons employed in the public sector as part of the employment opportunity scheme, imposes differential treatment between workers performing work of equal value in the public and the private sectors respectively. According to this organization, this amounted to discrimination in the sense of Convention No. 111. In its reply, the Government states that any infringement of the Convention must be based on the criteria listed in Article 1, paragraph 1(a), of the Convention; none of these criteria has a bearing on the facts of this case and Denmark has not specified any additional criteria under Article 1, paragraph 1(b), of the Convention. The Committee notes that the distinctions established by Act No. 929 of 27 December 1991 do not appear to be based on the grounds covered by Article 1, paragraph 1, of the Convention and are therefore not covered by the Convention.

Dominican Republic (ratification: 1962)

The Committee notes the Government's reports which also refer to information supplied in the Government's reports on the application of Conventions Nos. 95, 100 and 105.

1. Further to its previous comments, the Committee notes with satisfaction that Fundamental Principle VII of the Labour Code adopted on 29 May 1992 (Act No. 16-92), expressly prohibits "[a]ny discrimination, exclusion or preference based on grounds of sex, age, race, colour, national origin, social origin, political views, trade union activity or religious belief" and thus covers the grounds of discrimination listed in Article 1, paragraph 1(a), of the Convention.

2. The Committee also notes with satisfaction that the Labour Code adopted on 29 May 1992 has repealed the provisions and amendments of the 1951 Labour Code which required women (but not men) wishing to take up employment to provide a medical certificate attesting physical fitness for work.

3. The Committee also notes the Government's statement that by law, workers of Haitian origin in sugar plantations, as well as those engaged in agricultural work, stock-raising and in informal employment and other sectors of activity, enjoy the same rights and benefits as other workers with Dominican nationality. The Committee again requests the Government to provide detailed information on labour inspection activities for the enforcement of legal provisions prohibiting discrimination and other measures that have been taken to ensure that, in practice, Dominican workers of Haitian origin are not

subject to any discrimination in employment, in accordance with the Convention.

4. The Committee is addressing a request directly to the Government on other aspects of the Convention.

Ecuador (ratification: 1962)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. With reference to its previous comments, the Committee notes the Government's statement that the draft provisions to amend section 17 (b) of the Regulations issued under the Co-operatives Act (husband's authorization for a married woman to become a member of housing, agricultural or family vegetable garden cooperatives) will take the form of a Resolution of Congress rather than an Executive Agreement in order to give them greater legal force. The Committee requests the Government to provide a copy of the Resolution as soon as it has been adopted.
>
> 2. The Committee notes that the draft Legislative Decree to amend section 12 of the Commercial Code (husband's authorisation for married women to exercise commercial activities) and sections 66, 80 and 105 of the same Code (prohibition on married or single women from entering the stock market or becoming stockbrokers or public auctioneers), was presented to Congress at the beginning of 1990. The Committee hopes that the Government will provide a copy of the above Decree once it has been enacted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Egypt (ratification: 1960)

The Committee notes the Government's report and the discussion in the Conference Committee in 1991 concerning the questions raised in its previous observation.

1. The Committee notes that the Government reiterated its position that Presidential Decision No. 214 of 1978 is not contrary to Article 1 of the Convention since it protects religions without discriminating between them and is intended to combat all forms of fundamentalism and terrorism with a view to maintaining the values of the community and promoting the welfare of the people, as permitted by Article 4 of the Convention.

The Committee recalls that Presidential Decision No. 214 respecting the principles of the protection of the home front and social peace contains, in particular, a provision under which "any person who is convicted of maintaining principles contrary to, or conflicting with, the divine laws may not occupy a senior post in the public administration or the public sector, publish articles in the newspapers or perform work in any organ of information or perform any other work that may influence public opinion". Two laws adopted under this text, namely Act No. 33 of 1978 respecting the protection of the home front and social peace, and Act No. 95 of 1980 respecting the protection of values, contain similar provisions. Under section 2 of Act No. 33, "any person convicted, following an investigation by the Socialist Public Prosecutor (...) of advocating or of complicity in advocating doctrines which involve the rejection of divine laws or which are contrary to their teachings, may not occupy a senior post in the State or the public sector whose attributions include the issuing of directions or orders, or a post which has a bearing on public opinion, or any post as a representative member on executive boards of public bodies and enterprises or press establishments". Similarly, under section 4 of Act No. 95, any person proved guilty of violating the fundamental values of the people, including the rights and religious values of the people, is prohibited, for a period of six months to five years, "from being a candidate to, or occupying, posts of chairman or of member of steering committees or of boards of administration of societies or public bodies" and "from occupying posts or performing functions which may influence public opinion or which are related to the education of future generations". Under the same section, the persons in question are transferred to another post, retaining their wages and seniority rights, unless they are deprived of them on legal grounds.

The Committee notes that, according to the Government representative at the Conference, many provisions contrary to the principles of equality contained in the Egyptian Constitution, have already been annulled, thereby making it possible to respect the principles of non-discrimination. Furthermore, in a recent report, the Government stated that these provisions are not used in practice and that there is currently no-one who would be penalized under the above Decision.

The Committee is bound to recall once again that conformity should be ensured in the wording as well as in the application of the above national provisions with Article 1, paragraph 1(a), of the Convention, regarding any exclusion or preference based on religion or the expression of opinions related to moral values. As emphasized in paragraph 127 of the Committee's 1988 General Survey on Equality in Employment and Occupation, "criteria such as political opinion, national extraction and religion may be taken into account in connection with the inherent requirements of certain posts involving special responsibilities, but that if carried beyond certain limits, this practice comes into conflict with the provisions of the Convention". It appears to the Committee that the provisions of Presidential Decision No. 214 go beyond what may be considered to be in conformity with the Convention.

The Committee further recalls that the expression of opinions or religious, philosophical or political beliefs is not in itself a sufficient basis for the application of the exception provided for in Article 4 of the Convention in respect of activities prejudicial to the security of the State, provided that no violent methods are advocated or used (the Committee requests the Government to refer to paragraph 135 of its 1988 General Survey).

The Committee therefore once again requests the Government to make every effort to amend the above legislation in order to ensure that the principle of non-discrimination in employment and occupation laid down by the Convention is applied in law and in practice to all persons, regardless of their religious affiliation or beliefs, and the expression given to them. The Committee trusts that in its next report the Government will supply information on the measures taken in this respect.

2. The Committee recalls that it also raised the incompatibility of section 18 of Act No. 148 of 1980 respecting the power of the press, with the principles of the Convention. Section 18 prohibits the publication, participation in the publication or the ownership of newspapers by certain categories of persons (persons prohibited from exercising their political rights or from forming political parties, persons professing doctrines that reject divine laws, and persons convicted by the Court of Moral Values). The Committee also noted that Act No. 33, mentioned above, imposed restrictions, enforced by disciplinary sanctions, on members of the journalists' trade union in respect, in particular, of the freedom to publish or disseminate through the press or any other information media articles prejudicial to the "democratic socialist regime of the State" or "to the socialist achievements of the workers and peasants".

The Committee notes that, in his statement to the Conference Committee, the Government representative stated that section 18 did not restrict the right of any citizen to express his views through the various means of mass media, and that Act No. 148 would be repealed on the occasion of the revision of the law of the press.

The Committee points out that these legislative provisions are contrary to Article 1, paragraph 1(a), of the Convention, to the extent that they may give rise to discrimination based on political opinion and have the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation for the persons concerned. The Committee notes that, in a letter dated 28 January 1992, the Government states that it is currently undertaking the revision of national legislation in order to bring it into conformity with international Conventions. It trusts that the Government will take into account, on that occasion, all of its comments on the application of the Convention and that it will make every effort to ensure that the above provisions are brought into conformity in the very near future with Article 1, paragraph 1(a), of the Convention. It requests the Government to keep it informed of any measure taken in this respect.

[The Government is asked to supply full particulars to the Conference at its 80th Session.]

Germany (ratification: 1961)

Communications of FISE concerning discrimination on the ground of political opinion

1. The Committee notes the information contained in the report of the Government for the period ending 30 June 1992. It has also given further consideration to the communications received in February

1991 and December 1991 from the World Federation of Teacher's Union (FISE) concerning the measures taken in regard to personnel in the public service education system in the former German Democratic Republic. The Committee notes that copies of the aforementioned communications had been sent to the Government to enable it to present comments thereon and that in its 1992 observation the Committee had requested the Government to provide detailed information on a number of points raised in the communications.

2. The Committee recalls that in its communications FISE alleged that personnel in the public service education system in the former GDR, through application of the policy which had already been applied in the Federal Republic of Germany, had been arbitrarily dismissed from their teaching posts in violation of the Convention. Personnel in the public service education system in the former GDR were required to complete questionnaires concerning, among other things, their past positions, past national decorations received, whether they had been reproached or suspected of having violated fundamental principles of humanity or of States' rights and whether they were willing to commit themselves to the fundamental liberal-democratic system of the Federal Republic of Germany and to defend its laws. Dismissals of such personnel might result from the nature or content of answers to the questionnaire or from a refusal to answer it.

3. The Committee notes from the documentation submitted by FISE supplying details on 11 individual cases that the officials in question were nine teachers who had been dismissed or had been given notices of dismissal from their positions pursuant to the German Reunification Treaty, Chapter XIX, Section III, Annex 1, paragraph 4 and paragraph 5 (in two cases) and two officials who had been refused appointment to teaching/administrative positions. The information further indicates that most, if not all, of the public officials had filled out questionnaires prior to their termination. There was no indication in the documentation that any of the individuals in question replied negatively to the inquiry on whether they would commit themselves to the fundamental liberal-democratic system of Germany and defend its laws. The reasons given for the dismissals, notices of dismissals and refusal to appoint were based on former membership and/or position in certain political parties or organizations including positions held as President of the Union of Teachers of the GDR, member of municipal council, school inspector and other more general reasons such as unsuitability to teach in a democratic society. In the two dismissals made pursuant to paragraph 5, one case was based on former employment with the Ministry for State Security and the other gave no reason in the letter of dismissal.

4. Based on the aforementioned information, the Committee, in its 1992 observation, had requested the Government to provide detailed information on the number of public service officials, including teachers, who had been dismissed from their posts following reunification, the criteria applied in determining removal, as well as the procedural protections applicable and followed, and the manner in which the information collected from the personnel questionnaires was reviewed and used to condition continuation of employment in the public service, including teaching.

5. The Government has replied that no figures are available on the number of workers who have been discharged from the public service in the new Länder. It denies any question of arbitrary dismissal of public servants of the former GDR citing the provisions of the German Reunification Treaty, Chapter XIX, Annex I, Topic A, Section III, No. 1, paragraphs 4 and 5, which provide special legal bases for the termination of work relationships in the public administration in the Acceded Area (former GDR). The Government states that the provisions of paragraphs 4 and 5 take account of the special situation at the time of radical change in the State, and are indispensable for the creation in the Acceded Area of a constitutional and effective administration. The Government states that paragraph 4 of the Treaty provides that regular termination of a work relationship in the public service is permissible, if: (1) the worker does not meet the requirements, owing to inadequate specialist qualification or personal unsuitability; or (2) the worker can no longer be employed, owing to lack of necessity; or (3) the former appointment is abolished without replacement or, if the appointment is combined, incorporated or seriously altered, it is no longer possible to offer the previous employment or similar employment. The Government states that paragraph 5 of the Treaty provides that extraordinary termination of a work relationship is permissible based on serious reasons which exist when the worker: (1) has violated the principles of humanity or of the rule of law, especially the human rights guaranteed in the International Covenant on Civil and Political Rights of 19 December 1966 or has violated the principles contained in the Universal Declaration of Human Rights of 10 December 1948; or (2) has worked for the former Ministry for State Security or the Department of National Security, and a continuation of the work relationship thereby appears unacceptable. The Government states that termination under paragraph 5 always implies that an individual investigation has been carried out and that normal recourse to law, to appeal against termination, is available to the person concerned.

6. The Committee regrets that no figures are available on the number of workers who have been discharged from public service in the new Länder following reunification. The Committee has been informed that a number of individual communications alleging arbitrary dismissal on the basis of the Reunification Treaty have been received by the Office, but due to the individual nature of the complaints the Committee was not in a position to examine this information. The Committee also notes that the Government failed to provide the requested information on the criteria used to determine applicability of the provisions authorizing dismissal, the procedural protections available and the manner in which the information collected from the personnel questionnaires is reviewed and used to condition continuation of employment in the public service. In fact, no mention is made of the questionnaires in the Government's report.

7. In order for the Committee to determine the precise effect of the provisions of paragraphs 4 and 5 in Annex I to the Reunification Treaty, it must draw attention to how these provisions are being applied in practice to condition employment in the public service and how this application relates to the requirements of the Convention. In Article 1, paragraph 1, of the Convention, the term

discrimination includes any distinction, exclusion or preference made on the basis of specified grounds including political opinion, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. With respect to the protection of discrimination on the ground of political opinion, the Committee has stated in paragraph 57 of its 1988 General Survey that "the Convention implies (protection) in respect of activities expressing or demonstrating opposition to the established political principles - since the protection of opinions which are neither expressed nor demonstrated would be pointless ... The protection of freedom of expression is aimed ... at giving (an individual) an opportunity to seek to influence decisions in the political, economic and social life of his society". The Committee observes that to be meaningful the protection of political opinion must therefore extend to the collective participation in political parties and organizations.

8. In determining whether there is discrimination under the Convention, account must be taken of Article 1, paragraph 2, concerning the inherent requirements of a particular job, and of Article 4 concerning measures regarding activities prejudicial to the security of the State. It does not appear to the Committee that issues concerning the security of the State are raised in the communications of FISE as they deal with employment in teaching and lower-level administrative positions, therefore the Committee finds it unnecessary to examine the matter in light of the requirements set out under Article 4.

9. As regards the question of the inherent requirements of a particular job in relation to political opinion, the Committee in paragraph 126 of its 1988 General Survey stated that "although it may be admissible, in the case of certain higher posts which are directly concerned with implementing government policy, for the responsible authorities generally to bear in mind the political opinions of those concerned, the same is not true when conditions of a political nature are laid down for all kinds of public employment in general or for certain other professions: for example, when there is a provision that those concerned must make a formal declaration of loyalty and remain loyal to the political principles of the regime in power".

10. With respect to the inherent requirements of teaching positions, the Committee observes that consideration of political opinion is justified only where the opinions are in conflict with the obligations normally attached to teaching duties such as objectivity and respect for the truth, or are in conflict with or prejudice the aims and principles professed by the schools to which the officers belong, such as in an institution for religious studies. In this regard, the Committee would draw the Government's attention to the findings of the 1987 Commission of Inquiry which considered the special situation of teachers in the Federal Republic of Germany and the requirement of loyalty oaths conditioning their employment, both because the majority of cases brought to the Commission's attention concerned that profession and because of the emphasis placed by the Government of Germany on the special responsibility of teachers to uphold the free democratic basic order and on the vulnerability of pupils to be influenced by teachers. The Commission noted that only exceptionally had teachers been excluded from employment on the ground

that they had tried to indoctrinate pupils or had otherwise misconducted themselves in their service. The Commission found that there could be no justification to assume that, because a teacher was active in a particular party or organization, he would behave in a manner incompatible with his duties. The Commission concluded that, in most of the cases concerning teachers brought to its attention, the measures taken in application of the duty of faithfulness to the Constitution had not in various respects remained within the limits of the inherent job requirements exception provided in the Convention.

11. The Committee observes from the information provided by FISE that the dismissals were based on the individual's former membership or position in certain political parties or organizations and not on any conduct falling within the scope of what should reasonably be considered as an inherent requirement of the profession of teaching. Teaching or administrative skills, competence or qualifications were not questioned in any of the cases. The Committee further observes that the broad bases for dismissal provided in paragraphs 4, in particular 4(1), and 5 of the Annex to the Reunification Treaty upon which the Government relies, would not appear to lay down sufficiently precise criteria to ensure that there is no discrimination on the ground of political opinion.

12. The Committee hopes that the Government will re-examine its application of paragraphs 4 and 5 of Annex 1 to the Reunification Treaty and its use of the questionnaires, and that action will be taken to ensure that only such restrictions on employment in the public service in the new Länder are maintained as correspond to the inherent requirements of particular jobs within the meaning of Article 1, paragraph 2, of the Convention or as can be justified under the terms of Article 4 of the Convention. In this respect the Committee invites the Government to refer to the considerations set out in the Recommendations of the 1987 Commission of Inquiry, paragraphs 585 to 593, based on their relevance and applicability to the recent measures taken in the public service in the new Länder following reunification. The Committee requests the Government to report on the measures contemplated or taken to ensure that employment in the public service in the new Länder will be based on the inherent requirements of the job, such as by laying down of guidelines or sufficiently precise and objective criteria. The Committee hopes that the Government will provide statistics or other available information regarding the number of public officials, including teachers, who have been dismissed from their posts in the new Länder following reunification, the criteria applied in determining removal, the procedural protections available and the manner in which the information in the questionnaires is reviewed and used to determine conditionality for employment in the public service. It also requests the Government to indicate the rights of appeal available for the decisions taken under paragraphs 4 and 5 of the Reunification Treaty.

Follow-up to the recommendations of the 1987 Commission of Inquiry concerning equality of opportunity and treatment irrespective of political opinion

13. The Committee notes that the operation of the above-mentioned paragraphs of the Reunification Treaty has been extended to the end of 1993. It understands that the relevant federal legislation establishing the duty of faithfulness to the Constitution has become applicable in the new Länder. Recalling its direct request of 1991, the Committee hopes that the Government will provide information on the measures taken with a view to ensuring equality of opportunity and treatment in accordance with the Convention in the new Länder, more particularly as regards: (a) employment in the public service in those regions; and (b) access of persons from those regions to the federal public service and to the public service of the previously existing Länder of the Federal Republic.

14. In previous comments, the Committee had requested the Government to continue to supply information on any measures taken by the federal authorities and by the Länder of Baden Württemberg, Bavaria and Rhineland-Palatinate, in response to the recommendations of the 1987 Commission of Inquiry concerning the requirement of loyalty oaths conditioning employment in the public service of the Federal Republic of Germany. The Committee notes with interest from the Government's report that the systematic inquiries concerning the loyalty of applicants for positions in the public service have been abolished in Baden-Württemberg by a directive of the Ministry of the Interior dated 27 October 1990, in Bavaria by an announcement by the Government of the State and Land of Bavaria of 3 December 1991 and in the Rhineland-Palatinate by an administrative provision of the Ministry of the Interior of 27 December 1990. As a result, the Government reports that no systematic inquiries concerning applicants have been made in Germany since 1 January 1992. The Committee requests the Government to provide copies of the above provisions and directives and to continue to supply information on the practical application of the recommendations of the Commission of Inquiry.

Equality of opportunity and treatment on the ground of sex

15. The Committee notes that a draft law to bring about the equal status of men and women is currently being prepared by the Federal Ministry for Women and Young Persons and that, according to the Government, it will further improve sanctions against discrimination on the ground of sex in appointment and promotion in employment. The Committee hopes its previous comments will be taken into consideration in the drafting of the new legislation and that the Government will supply a copy of the text upon its adoption.

Equality of opportunity and treatment on grounds of race and national extraction

16. The Committee requests the Government to provide information on the policies, programmes or other measures taken or pursued with a view to eliminating discrimination and promoting equality of opportunity and treatment of all persons in employment and occupation on grounds of race and national extraction, in regard to access to training, access to and security of employment and terms and conditions of employment.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Ghana (ratification: 1961)

The Committee notes from the Government's brief report that the comments of this Committee concerning the recommendations to facilitate the amendment of the Civil Service Act of 1960 and Regulation 60(1) of the Civil Service (Interim) Regulations, 1960 are under discussion. As no more specific information has been provided, the Committee is obliged to repeat its previous comments which read as follows:

> 1. In comments made since 1967, the Committee has noted that under section 32 of the Civil Service Act, 1960, the President may dismiss or remove any civil servant if he is satisfied that it is in the public interest to do so and that under regulation 60(1) of the Civil Service (Interim) Regulations 1960, there shall be no appeal against a decision of this sort which is taken or confirmed by the President. Accordingly, the Committee has requested that measures be taken, both as regards legal grounds for dismissal and regarding channels of appeal so as to ensure that civil servants are not discriminated against on any of the grounds covered by the Convention. For many years, the Government has reiterated that the question of civil servants' right of appeal was being studied by the Public Services Commission and the Attorney-General's Office.
>
> The Committee noted the Government's statement that the Constitution is the supreme law of the country and that any other law found to be inconsistent with any provision of the Constitution shall, to the extent of the inconsistency, be void and of no effect. The Government also stated that in view of the constitutional provision which safeguards the liberty of the individual, a dismissed civil servant may seek redress from the courts. The Government further indicates that there are cases relevant to this matter, notably those of Sallah v. the Attorney-General 1970 (already referred to by the Government in the discussion on this matter by the Conference Committee in 1983) and Owusu Afriyie v. State Hotels 1977. The former case concerned a civil servant (who was one of 560 dismissed public officers) whose dismissal was annulled by the court. In respect of the latter case, the Governmment indicated only that the dismissed plaintiff sued in the High Court and won her case.

In the absence of copies of the decisions cited and of any indication as to the particular terms of the constitutional provision referred to by the Government, the Committee is unable to ascertain whether dismissed civil servants are guaranteed adequate channels of appeal. The Committee recalls, in this regard, that the 1979 Constitution (which was suspended by the National Defence Council (Establishment) Proclamation 1981) was formally abrogated by section 66(1) of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provisions) Law. (PNDCL Law 42 of 1981.) However, even if a right of appeal were guaranteed under the Constitution, that cannot be considered to be sufficient in itself to guarantee equality of opportunity and treatment under the Convention. The problems often encountered in remedial procedures - such as the cost, the difficulties with the burden of proof, the fear of initiating proceedings alone and that of exposure to reprisals - may effectively deter many civil servants from pursuing this course. Indeed, the Committee considers it significant that apparently only one civil servant out of 560 dismissed public officials sought to bring an action before the courts. Accordingly, it is of paramount importance that the Government take steps to amend without delay section 32 of the Civil Service Act 1960 to ensure that civil servants not be subject to discrimination concerning their dismissal or removal from employment on the grounds of race, sex, religion, political opinion, national extraction or social origin. In addition, the Committee urges the Government to amend Regulation 60(1) of the Civil Service (Interim) Regulations, 1960, to guarantee civil servants the right of appeal in all cases of dismissal or removal from employment.

2. In its previous comments, the Committee had noted the Government's statement that steps were being taken to reconstitute the "National Advisory Committee on Labour" to finalise examination of the Committee's outstanding comments. The Committee also recalled the indication given by the Government to the Conference Committee in 1986 that the "National Labour Advisory Committee" had been reconstituted in July 1985, and was examining outstanding comments of the Committee. The Committee notes that the Government has not provided any further information on this matter. Accordingly, the Committee recalls the obligations of the Government under Article 3(f) of the Convention to indicate in regular reports, the action taken in pursuance of a policy to promote equality and eliminate discrimination; and hopes that the Government will provide the details called for in a direct request which the Committee is again addressing to the Government.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Greece (ratification: 1984)

With reference to its previous observations, the Committee notes the detailed information supplied by the Government in reply to its comments on equality of opportunity and treatment in employment in the Greek Telecommunications Agency (OTE), and in particular, the copy of the wage scale for the OTE staff, in force since 1 January 1990 pursuant to the National Labour Collective Agreement of 7 March 1990.

It notes from extracts of the 1989 report of the Standing Committee for the Equality of the Sexes that section 6 of the General Regulations for OTE staff has been amended so as to apply the same age-limit with regard to recruitment for both men and women and that 42 per cent of the total number of employees recruited from 1983 to 1988 were women. The Committee hopes the Government will supply, in future reports, any information on further progress made concerning the position of women in the Greek Telecommunications Agency.

Guinea (ratification: 1960)

1. The Committee notes the Government's statement in reply to its previous observation according to which the Government is taking measures to bring the provisions of Ordinance No. 017/PRG/SGG of 5 March 1987 respecting the general principles of the public service, into conformity with the Fundamental Act of 23 December 1990 and that all laws and regulations which are contrary to the Fundamental Act are to be amended.

In this connection, the Committee recalls its previous comments that section 20 of Ordinance No. 017/PRG/SGG should be broadened to conform with Article 1, paragraph 1(a), of the Convention to cover race, colour, political opinion, national extraction and social origin as prohibited grounds of discrimination.

The Committee trusts that the Government will provide in its next report detailed information on the progress made in harmonizing the national legislation with the Convention and that it will provide a copy of the new regulations for the public service which have apparently been adopted.

2. The Committee also asks the Government to refer to the request being addressed to it directly.

Hungary (ratification: 1961)

1. The Committee notes with interest the adoption of the new Labour Code, Act XXII, of 1992, which in addition to reaffirming the prohibition of discrimination on the grounds listed in Article 1, paragraph 1(a), of the Convention, provides in section 5(3) that employers shall ensure exclusively on the basis of time spent on the job, professional skills, experience and performance, without discrimination, the opportunity of employees to be promoted to a higher position. The Committee also notes with interest section 2 of Act IV of 1991 on Employment Promotion and Provision for Unemployed Persons, which provides that in promoting employment and supporting

unemployed persons, equal opportunity should be ensured for each worker irrespective of sex, age, race, social origin, national extraction, religion, political opinion and membership of workers' organizations.

2. The Committee is raising other points in a request addressed directly to the Government.

Islamic Republic of Iran (ratification: 1964)

1. The Committee notes the information provided by the Government in its report for the period ending 30 June 1992. It has also taken note of the information contained in the reports on the human rights situation in the Islamic Republic of Iran prepared by the Special Representative of the United Nations Commission on Human Rights (UN documents A/47/617 of 13 November 1992, E/CN.4/1993/41 of 23 December 1992 and E/CN.4/1993/41/Add.1 of 5 February 1993) and in the report of the Special Rapporteur of the Commission on Human Rights on the implementation of the Declaration of All Forms of Intolerance and of Discrimination Based on Religion or Belief (UN document E/CN.4/1992/52 of 18 December 1991).

Discrimination based on religion

2. The Committee notes from the above-mentioned UN reports that:

(i) Baha'is are forbidden to be recruited for government positions in accordance with the law;

(ii) Baha'is continue to be dismissed from government employment and have not been able to obtain reinstatement, and in some cases have had to return salaries or pensions received as public employees;

(iii) the retirement pensions of Baha'is dismissed on religious grounds have been terminated;

(iv) Baha'is have been ordered to close their businesses and Baha'i farmers continue to be denied admittance into farmers' cooperatives;

(v) Baha'is continue to be denied access to institutions of higher education, and although Baha'i children and youths who had been expelled have been allowed to return to elementary and secondary schools, in January 1991, Baha'i children's classes were ordered to be closed;

(vi) according to a circular issued by the Supreme Revolutionary Cultural Council on 25 February 1991 which establishes the policy to be followed concerning practitioners of the Baha'i faith, they are not to be expelled from the country without reason, nor shall they be detained, imprisoned or punished without reason but their progress and development shall be blocked; they shall be expelled from university; they shall be permitted to lead a modest life similar to that of the population in general; they shall be allowed the normal means to life such as ration books, passports and work permits but employment shall be refused to persons identifying themselves as Baha'is and they shall be denied positions of influence, for example in the education sector;

(vii) followers of the Zoroastrian faith, which is one of the four religions officially recognized by the Constitution of the Islamic Republic of Iran, have on occasion been subject to closing of businesses and denial of employment.

3. The Committee recalls that most of these points, with the exception of the circular, were raised in its 1991 observation, to which the general information contained in the Government's last report did not respond. The Committee is therefore bound to request information on the following points.

4. The Committee notes with concern the reference to the circular of the Supreme Revolutionary Cultural Council of 25 February 1991, for while it provides that persons professing the Baha'i faith are to be allowed to earn a living and are entitled to work permits, it also states that they are to be denied employment, expelled from university and in general their progress and development is to be blocked. The Committee would be grateful if the Government would supply a copy of this circular and would indicate the manner in which it is enforced. In the meantime, based on the reported contents of the circular, the Committee urges the Government to re-examine its contents in the light of the requirements of Articles 1, paragraph 1(a), and 3(c) and (d), of the Convention, which call for repealing of all statutory provisions and modifying all administrative instructions and practices inconsistent with the policy of equal opportunity and treatment.

5. The Committee also requests detailed information on the impact on Baha'is of the measures set out in the above mentioned circular with respect to:

- access to employment, both in the private sector and in the public service (including opportunities for the reinstatement of those previously dismissed from government service);
- access to higher education and training;
- terms and conditions of employment;
- pensions and other social security rights;
- the operation of shops, the pursuit of peasant farming and the exercise of other independent occupations.

6. The Committee had previously noted a directive of the Ministry of Labour, published on 8 December 1981, requiring courts to withhold any judgement in favour of dismissed employees proved to have been members of the Baha'i group or of any organization whose constitution negated divine religions. Recalling the Government's statement in the Conference Committee in 1988 that this directive was no longer in force, the Committee reiterates its request of the Government to communicate the text which repealed the directive and to indicate whether it has been replaced by another text.

7. The Committee recalls that pursuant to the terms of the Prime Minister's Directive No. M/11/4462 of 1989, it is forbidden to deny citizens, whatever their belief, their social and legal rights if they have not been recognized as spies by the competent authorities or if they have not been condemned to a sentence depriving them of their rights. The Committee again requests the Government to furnish information on the precise effect of the directive in relation to

equality of opportunity and treatment irrespective of religion, in particular for the Baha'is, as well as for persons following the Zoroastrian faith and persons not professing any religion.

8. The Committee recalls that, according to an Act of 14 May 1982 giving effect to article 163 of the Constitution, requirements for selection of judges include professing Islamic faith and enjoying qualifications in Islamic law or theology. The Committee again requests the Government to provide information on the provision for the hearing of claims by members of recognized religious minorities by judges of their own faith and the number of religious minorities who hold positions of judicial authority.

9. With respect to questions concerning the employment of persons belonging to Freemasonry which the Government previously reported had arisen but no longer exists, the Committee once again requests the Government to indicate the measures taken to enable persons who were removed from office or dismissed on this ground to be reinstated.

10. Recalling the Act on Islamic Labour Councils of 1985 which provides for the establishment of such councils in industrial, agricultural and service undertakings and that candidates for election to these councils must be practising Muslims, followers of the "Velayat Faghig", or members of the Jewish, Christian or Zoroastrian minorities, and noting the continued reference to the existence and functions of the Councils in the new Labour Code, adopted on 17 February 1991, the Committee would appreciate information on: (a) the reasons for excluding persons who do not meet the above-mentioned criteria from eligibility to the Councils; (b) the practical effect of requiring Muslim candidates to be followers of the "Velayat Faghig" and the reasons for this requirement; and (c) whether restrictions similar to those stated above apply to other aspects of industrial relations and employment and occupation and if so, please supply the relevant texts.

The situation of women workers

11. The Committee notes from the above-mentioned UN reports that women continue to be banned from pursuing studies in agriculture, engineering, mining and metallurgy and from becoming judges; and that the employment rate of women has been drastically reduced, from 13 to 6.5 per cent. The Committee requests the Government to provide information on the bases for denying access to such fields of study in higher education and to indicate the measures taken to promote equal access to higher education, vocational training, employment and particular occupations between women and men and to include statistical data on women's labour force participation rates.

12. The Committee recalls the Government's previous statement that women work as judges, in particular in family courts. It also recalls, however, that according to an Act of 14 May 1982 to give effect to article 163 of the Constitution, only men can be judges. The Committee thus again requests the Government to indicate other legislative provisions that exist to authorize the appointment of women as judges and to communicate copies of these provisions. It

further requests the Government to provide information on the number and positions of women exercising judicial functions.

13. The Committee again requests the Government to provide information on restrictions on the employment of women, including the types of work forbidden to women pursuant to section 75 of the Labour Code and to communicate copies of the legislative texts regulating this matter.

General measures concerning equality

14. Since its previous comments, the Committee has had the opportunity to examine the new Labour Code, adopted on 17 February 1991, which provides in section 6 that people of Iran enjoy equal rights irrespective of their tribe or ethnic group; that privileges or distinctions should not be based on complexion, race, language and the like; that all individuals whether men or women are equally protected by the law; and that every citizen is entitled to choose any job and profession he wishes, provided such job or profession is not against Islam, the public interests and does not violate other people's rights. Section 38 of the Code further provides that for equal work performed in a workshop under equal conditions, an equal wage should be paid to men and women and that any discrimination in wage determination on the basis of age, gender, race, ethnicity and political and religious convictions is forbidden.

15. The Committee notes from the above provisions that while discrimination in wage determination is prohibited by section 38 on all grounds set out in Article 1, paragraph 1(a), of the Convention except social origin, the more general protections against discrimination in employment and occupation contained in section 6 do not cover the grounds of religion, political opinion or social origin, and, on the ground of sex, the protection is limited to equal protection of the law. The Committee would be grateful if the Government would provide information on any measures contemplated or taken to extend the protection of the Labour Code against discrimination in employment and occupation so as to prohibit any distinction, exclusion or preference on all the grounds set out in Article 1, paragraph 1(a), including religion, political opinion and social origin, in conformity with the requirements of the Convention. In this regard the Committee notes from the Government's report that some changes have already been made to the Labour Code, particularly in respect of Chapter 5 on vocational training and employment, and it would be grateful if the Government would provide copies with its next report of all amendments made to the Labour Code.

16. The Government states in its report that the main orientation of the country's post-war macroeconomic development plan, contained in the five-year economic, social and development plan, in regard to employment is to further expand employment opportunities for men and women irrespective of their race, colour, opinion, national extraction and social origin. According to the Government, the implementation of this plan is achieved with the cooperation of the workers' and employers' organizations in the country. The Committee requests the Government to provide information on the specific measures taken to implement this development plan with a view to

promoting equality of opportunity and treatment in employment and occupation, including relevant statistical data on labour force participation rates of various groups of the population.

17. The Government also reports that any case nullifying or impairing equality of opportunity and treatment in employment and occupation is placed on the agenda of the Supreme Council of Labour and is duly dealt with. Reports and conclusions of these meetings are reflected in the national broadcast network and the Government news bulletins. With respect to laws, administrative instructions and circulars, the Government states that any such documents found to have discriminatory provisions will be reconsidered and, if necessary, amended or cancelled. The Committee requests the Government to provide detailed information on any cases in which discrimination in employment or occupation has been brought before the Supreme Council, the criteria upon which the case is examined, the disposition of the case and to indicate any laws, regulations or circulars which have been alleged to contain discriminatory provisions and whether such provisions have been amended or cancelled.

[The Government is asked to provide full particulars to the Conference at its 80th Session.]

Iraq (ratification: 1959)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. Further to its observation of 1991, the Committee notes the report of the Committee responsible for examining the representation made under article 24 of the ILO Constitution by the Federation of Egyptian Trade Unions alleging the non-observance by Iraq of certain Conventions, including Convention No. 111. It notes the above Committee's conclusion that it does not appear that the actions complained of were carried out on any of the grounds covered by the Convention.
>
> 2. In its direct request of 1990, the Committee noted the ninth report (submitted in 1988) of the Government to the United Nations Committee on the Elimination of Racial Discrimination, in which the Government stated that it had taken measures to promote the cultural rights (including the right to education and training) of citizens belonging to the ethnic and linguistic minorities of the country such as the Turkoman and Kurdish minorities. The Committee requested information on the results of these measures and on the manner in which the principle of equality of opportunity and treatment laid down by the Convention is applied to these minorities in respect of access to employment and occupation.
>
> 3. The Committee notes that, in its last report supplied in October 1990, the Government merely cites the provisions of the Constitution and labour legislation which guarantee equality in employment for all citizens. The Committee points out that under Article 2 of the Convention the Government undertakes to declare and pursue a national policy designed to promote equality

of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination, including discrimination on the basis of national extraction. Consequently, the Committee again asks the Government to provide information in its next report on the measures that have been taken or are under consideration to ensure that, in practice, the members of the Kurdish and Turkoman minorities are not subjected to any discrimination in employment or occupation and that they fully enjoy equality of opportunity and treatment.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Italy (ratification: 1963)

1. Further to its previous direct requests, the Committee notes with interest the adoption of the Act on Affirmative Action for Women in Entrepreneurial Activity (No. 215), dated 25 February 1992, which promotes the creation of enterprises staffed and managed predominantly by women in the agricultural, crafts, commercial and industrial sectors, and the development of cooperative societies and companies in which women make up the majority of partners or at least two-thirds of the directors, through the provision of incentives, credit and financing arrangements and the establishment of a Committee on Entrepreneurial Activity by Women in the Ministry of Industry. The Committee would be grateful if the Government would provide information on the implementation of the legislation and the results achieved in the various activities provided for under the Act.

2. The Committee also notes with interest the information given by the Government on the implementation of Act No. 125 of 10 April 1991 on positive action for the attainment of equality between men and women at work. It notes in particular that pursuant to the Act, 49 affirmative action programmes submitted by companies have already been approved and are under way, and that the National Committee for the Application of the Principles of Equality between Men and Women Workers and the Board of Inquiry have become fully operational. The Committee requests the Government to indicate the criteria upon which programmes are approved under the Act, and the results achieved in terms of the goals and timetables set in the various programmes to attain equal opportunity and treatment in the workplace between men and women. It hopes that the Government will continue to provide information on the activities of the National Committee and the Board of Inquiry and will communicate the findings of the report scheduled to be prepared in 1992 on the position of men and women workers based on information submitted by private and public enterprises under section 9 of Act No. 125.

3. The Committee recalls that a number of collective agreements have included special clauses designed to promote equality of opportunity and treatment between men and women, establishing joint committees to that end and prohibiting sexual harassment. The Committee would be grateful if the Government would supply information on the implementation of those clauses in practice and on the activities of the joint committees.

Malta (ratification: 1968)

The Committee notes that the Government's report contains no reply to previous comments. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes with interest an amendment to the Constitution, substituting the former article 14, aimed at ensuring equal rights for women workers, with the provision that the State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes. It further notes the amendment to article 45 of the Constitution authorizing the taking of special measures aimed at accelerating de facto equality between men and women. The Committee would be grateful if the Government would provide information on the measures contemplated or taken pursuant to these sections to promote equality of opportunity and treatment between men and women in the field of the Convention.
>
> 2. The Committee notes with interest the establishment of the Commission for the Advancement of Women in 1989, which is entrusted with, among other duties, the proposal of amendments to be made to national laws to achieve equal status in a truly meaningful manner. It also notes with interest the establishment of the Secretariat for the Equal Status of Women in 1989, which has among its objectives the promotion and encouragement of effective implementation of the principles of equality between women and men in every sphere of Maltese life, including the promotion of co-responsibility within the family. The Committee requests the Government to continue to provide information on activities and recommendations of the Commission and the Secretariat, indicating in particular the level of responsibility each of these agencies has in national policy-making and the results they have achieved in the field of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Mauritania (ratification: 1963)

In its observation of 1991, the Committee noted the recommendations of the Committee set up to examine the representation presented by the National Confederation of Workers of Senegal under article 24 of the ILO Constitution. These recommendations concerned, in particular, measures to determine the nationality of persons displaced from the territory of Mauritania in 1989 and who claim Mauritanian nationality, and reparation for the prejudice suffered by Mauritanian nationals who were displaced. The Governing Body asked the Government to supply, in a report to be sent by 15 October 1991 at the latest, information on the measures taken and on their results, with a view to giving effect to the recommendations of the Governing Body.

The Committee notes that the reports received from the Government in the course of 1992 do not contain the information requested and that the Government confines itself to indicating that negotiations between Senegal and Mauritania have begun with a view to finding a just and lasting solution for both countries to their dispute in 1989.

The Committee also notes that, during a direct contacts mission conducted in May 1992 and concerning the application by Mauritania of certain ILO Conventions, the Government did not provide specific information on the questions raised in the representation, or on the application of the Convention, but promised to gather the information and to transmit it in its future reports which would be detailed. The Committee notes with regret that the Government's last report, received in August 1992, contains no information on the measures that have been taken to give effect to the recommendations of the above-mentioned Committee. It trusts that the Government will provide full information on these matters in its next report.

Furthermore, the Committee repeats its previous comments on the application of the Convention in a request addressed directly to the Government.

[The Government is asked to supply full particulars to the Conference at its 80th Session and to report in detail for the period ending 30 June 1993.]

New Zealand (ratification: 1983)

In its previous observation, the Committee noted that, following the repeal of the Employment Equity Act, 1990, the Government established a Working Party on Equity in Employment to evaluate equal employment opportunity initiatives and report to the Government on the most effective means of developing and implementing its equity in employment policy. The Working Party's report, dated January 1991, discussed equal employment and training opportunities for women, the Maori people, Pacific Island people, people with disabilities and other groups identified as disadvantaged and contained key recommendations on the enactment of legislation requiring employers to develop, implement and monitor equal employment opportunities programmes, as well as on the establishment of a Council for Equity in Employment funded jointly by the Government and the private sector. The Committee notes from the information supplied by the Government in July 1991 and in its last report that the Government prefers a non-legislative approach to equality in employment. It preferred the creation of a joint private/public sector Equal Employment Opportunities (EEO) Trust, funded by government and employer contributions, to develop and promote EEO policies and practices, as well as research in this area, primarily in the private sector. The Trust is to report annually to Parliament on its activities and the progress achieved towards the development and implementation of EEO policies and practices in the private sector. The Government also established an Equal Employment Opportunities Fund for the promotion of EEO programmes and practices in the private sector.

The Committee notes that the Government intends to monitor progress achieved towards an equal employment opportunities environment in the private sector through the educational, promotional and research work of the EEO Trust and the results of the projects supported by the EEO Fund, and requests it to provide, in its next report, full information concerning (i) equal employment opportunity plans in the private sector and (ii) the activities of and the results achieved by the EEO Trust and the EEO Fund in the promotion and implementation in practice of equality of opportunity and treatment in employment as well as equal access to education and vocational training.

Pakistan (ratification: 1961)

The Committee notes the information contained in the Government's report and attached documentation. The Committee also notes the communication of the All Pakistan Federation of Trade Unions, dated 3 January 1993, alleging that the Government intends to exclude newly established industrial zones from the labour legislation thereby removing them from the protection of this Convention. A copy of the communications was transmitted to the Government in January 1993. The Committee hopes that the Government will provide its comments on this communication in its next report so that it will be in a position to examine them at its next session.

1. In previous observations, the Committee referred to a resolution of the Subcommission on Prevention of Discrimination and Protection of Minorities of the United Nations Commission on Human Rights, which expressed grave concern that persons charged with and arrested for violations of the Anti-Islamic Activities of the Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984 (Ordinance No. XX of 1984) and also the affected groups as a whole had been subjected to discrimination in employment and education. The Committee noted that under the provisions of Ordinance No. XX (section 3(2), in particular) members of the religious groups concerned may be sentenced to imprisonment, inter alia, for propagating their faith and that such a punishment has a direct bearing on their employment opportunities. It thus requested the Government to review this matter and take the measures necessary to bring the legislation and practice into conformity with the Convention.

The Committee notes the Government's statements in the Conference Committee in 1989 and in its most recent reports that discrimination on the grounds of religion or faith is not allowed against minorities, including Quadianis; that the Constitution of Pakistan provides equal opportunities in employment and education to every citizen of Pakistan regardless of faith or religion; and, that Ahmadis/Quadianis are eligible to compete for all vacant posts in all categories of the services of Pakistan. Specifically, the Government refers to article 27 of the Constitution which prohibits discrimination in the matter of appointments in the services of Pakistan on the basis of race, religion, caste, sex, residence or place of birth; and, to article 36 of the Constitution which provides that the State shall safeguard the legitimate rights and interests of minorities, including their due representation in the services of the federal and provincial

Governments. The Government also states that the Pakistan Penal Code imposes an obligation on all citizens, regardless of their religion, to respect the religious sentiments of others and that any infringement of that obligation is prohibited and punishable. According to the Government, this provision applies to the religious practices of the Ahmadis/Quadianis as well as to other citizens, including Muslims. The Government further reports that the Ahmadis/Quadianis filed a petition in the Federal Shariat Court challenging Ordinance No. XX, that this Court dismissed the petition and that in 1988 the Ahmadis/Quadianis withdrew the appeals they had instituted before the Supreme Court against that dismissal.

The Committee takes note of these statements. However, it must once again observe that the provisions of Ordinance No. XX (particularly section 3(2)) provide for members of the religious groups concerned to be sentenced to imprisonment, inter alia, for propagating their faith. The Committee reiterates that the punishment of imprisonment prescribed by Ordinance No. XX could have a direct bearing on their opportunities regarding employment as guaranteed by Article 1, paragraph 1, of the Convention. With a view to ensuring observance of the Convention, the Committee again expresses the hope that the Ordinance, which affects members of religious groups in employment, will be reconsidered and that the necessary measures will be taken to bring legislation and practice into conformity with the Convention. Pending amendment of the legislation, it requests the Government to supply information on the application of the Ordinance and in particular on the employment and occupation status of those to whom it has been applied.

2. The Committee, in previous observations, referred to the allegation transmitted by a Special Rapporteur appointed in accordance with resolution 1986/20 of the United Nations Commission on Human Rights to the Government of Pakistan that a first-class technician in the air force was dismissed from his function for belonging to the Ahmadi faith (E/CN.4/1989/44, page 29). The Government states that this technician was dismissed on the grounds of some other offence and in the interest of public service, not because he belongs to the Ahmadi/Quadiani faith. The Government further indicates that many minorities, including Ahmadis/Quadianis, are serving in the armed forces according to their quota and the Constitution of Pakistan, and that the military law of Pakistan fully safeguards the interests and rights of the minorities, including Ahmadis/Quadianis.

Noting these indications, the Committee requests the Government to provide in its next report statistical information on the number and percentage of Ahmadis/Quadianis serving in the armed forces and the number, if any, dismissed from such employment and the reasons cited for their dismissals so as to enable the Committee to ascertain that no discrimination is involved on the grounds prohibited by the Convention.

3. In previous observations, the Committee also referred to the written statement submitted by the Anti-Slavery Society for Protection of Human Rights to the Commission on Human Rights (E/CN.4/1987/NGO/67), in which it was alleged, inter alia, that the issue of a passport is refused to a Muslim in Pakistan if the applicant does not declare in writing that the founder of the

Ahmadiyya movement in Islam was a liar and an impostor. The Committee noted that such measures clearly would deprive persons of the freedom to choose an employment abroad and result in discrimination in access to employment on the ground of religion.

The Government states that the objective of the declaration in the passport application is to differentiate Muslims from non-Muslims, and not to deprive anyone from receiving a passport and choosing employment abroad. According to the Government, non-Muslims are not required to sign the above declaration and under section 3(b) of article 260 of the Constitution of Pakistan, 1973, persons belonging to the Quadiani or Lahori group are declared as "non-Muslim". Notwithstanding this provision, the Government states that members of such groups continue to call themselves Muslim and for this reason the declaration is required. In this regard, the Committee would draw attention to Article 1, paragraphs 1(a) and (b), of the Convention which requires the protection of persons against any form of discrimination in employment based on religion, even that which is indirect and unintended. The Committee would therefore be grateful if the Government would supply full information on the effect in practice of the declaration requirement on members of the Quadiani or Lahori group applying for and receiving passports and on the measures taken to ensure that such group members are effectively guaranteed their freedom to seek employment abroad on the same footing as other nationals.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Paraguay (ratification: 1967)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In previous comments, the Committee has referred to section 34 of Act No. 200 establishing the Public Employees' Statute, according to which no public employee may engage in activities contrary to public order or to the democratic system established by the national Constitution.
>
> The Committee notes the information provided by the Government in its report, concerning the practical application of section 34 of Act No. 200, to the effect that if public employees engage in activities contrary to public order they may be removed from their posts and barred from holding public office for a period of from two to five years (section 49.5 of Act No. 200).
>
> The Committee recalls that provisions restricting the political activities of public employees may have the effect of excluding from the scope of constitutional and legal protection against discrimination with regard to employment, persons who express or manifest certain opinions or political ideas which are contrary to the opinions of the established authorities. It is therefore important to ascertain whether, in practice, the above provisions lead to discrimination on the basis of political opinion for the categories of workers concerned.

The Committee, in order to be able to ascertain the effect given to the Convention, hopes that the new Government will provide a copy of any sentences handed down or decisions made by virtue of sections 34 and 49.5 of Act No. 200, and will supply any further information that may enable it to ascertain the scope of the provision contained in section 34 of Act No. 200.

2. The Committee hopes that the next report will contain information on the above questions, in view of the repeal, in 1989, of Act No. 294 and the statement contained in the last report, to the effect that the national government fully guarantees freedom of opinion for all sectors of the population.

3. The Committee refers to its direct request of 1989 concerning a draft amendment to the Penal Code (members of certain organizations liable to dismissal and disqualification from public or municipal service on the police force). It requests the Government, in its next report, to indicate the present status of the above draft and to provide, if appropriate, the text of the provisions adopted.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Poland (ratification: 1961)

The Committee notes the information supplied in the Government's report and attached documentation, in reply to its previous comments.

1. The Committee notes the Government's statement that a draft amendment of the Labour Code has been elaborated by the Committee for the Reform of Labour Law, in cooperation with the Ministry of Labour and Social Policy, and that particular attention was paid in the elaboration of the amendment to ensuring that the Labour Code would be in conformity with the requirements of international labour standards. According to the Government, the draft amendment will be subject to inter-ministerial consultation and will be sent for comment to trade unions and employer organizations prior to submission to the national parliament. The Committee would be grateful if the Government would continue to provide information on the adoption of the draft amendment to the Labour Code and on the future work of the above-mentioned Committee. It trusts that the Labour Code, as amended, will give full effect to the provisions of the Convention.

2. Noting that a draft Rights and Freedom Charter has been elaborated and submitted to parliament, the Committee requests the Government to supply a copy upon its adoption. The Committee also recalls that work had been undertaken on the revision of the Constitution. It requests the Government to provide information on the revision process and continues to hope that the revised Constitution will be in full conformity with the provisions of the Convention.

3. The Committee notes the activities undertaken in 1990 and 1991 by the Office of the Commissioner for Civil Rights Protection concerning the protection of the principle of equality of opportunity and treatment in employment and the Commissioner's work in handling various individual cases alleging discrimination on grounds of sex,

religion and political opinion. In particular, the Committee notes with interest that, in regard to cases concerning dismissal of teachers or educational administrative staff based on political grounds, the Commissioner emphasized the inappropriateness of any criteria of evaluation and employment of people in education, other than their professional and ethical qualifications and found criteria of philosophy of life or political opinions to be irrelevant. The Committee requests the Government to continue to provide information on these activities, including copies of the detailed annual reports and other materials prepared by the Commissioner for Civil Rights Protection.

4. The Committee would be grateful if the Government would supply copies of court decisions, in particular those of the High Administrative Court, concerning cases in which direct or indirect discrimination in employment or occupation has been alleged.

5. The Committee takes note of the Government's statement that on 28 February 1992 the Government Plenipotentiary for Women and Family Affairs was dismissed and her office is being reorganized. The Committee also takes note of the comments of the National Commission of NSZZ Solidarnosc on the Polish Government's report submitted in 1992 under Article 19 on Convention No. 156, which state that female workers with family responsibilities have become a group particularly vulnerable to dismissals, most notably amongst them single female workers with family responsibilities and those on child-care leave. The Committee accordingly requests the Government to provide information on the measures taken to reorganize the office of the Plenipotentiary and to appoint a new Plenipotentiary. It also requests the Government to provide full details on the measures taken to ensure the effective promotion and implementation of a national policy on equal opportunity and treatment between women and men in access to vocational training, access to employment and to particular occupations, terms and conditions of work and security of employment. It further requests the Government to provide information on the grounds upon which pregnant women and women on child care leave may be dismissed from their employment.

6. Noting the work in progress on the elaboration of legislative texts, the Committee once again requests the Government to supply copies of legislative texts upon their adoption and to provide information on the national policy pursued, in the framework of the institutional and economic changes taking place, to promote equality of opportunity and treatment in employment and occupation irrespective of race, colour, religion, political opinion, national extraction or social origin. In this context, please indicate the steps taken to promote equality of opportunity and treatment: (a) in employment, vocational training, vocational guidance and placement services under the direct control of a national authority; (b) through legislation and educational programmes; and (c) through collaboration with the employers' and workers' organizations and other non-governmental bodies.

7. The Committee is addressing a request directly to the Government on other points.

Romania (ratification: 1973)

Further to its observation of 1992, in which the Committee had taken note of the conclusions and recommendations of the Commission of Inquiry concerning the existence of discriminatory practices based on political opinion, race, national extraction and social origin, the Committee notes the Government's report and attached documentation.

Discrimination on the grounds of political opinion and social origin

1. In reply to its concern that manifestations of differing political opinions may still give rise to discriminatory practices in employment, the Committee notes from the Government's report that the procedure of using personnel records which workers had to fill out, a practice of the old regime, has ceased to exist and that the provision in article 50(a) of the Constitution which states that "faithfulness towards the country is sacred" refers to the valor of patriotism. The Committee would be grateful if the Government would continue to supply information on the measures taken to ensure that discrimination on the grounds of political opinion does not occur, including copies of any relevant judicial decisions or regulations.

Discrimination on the grounds of national extraction and race

2. The Committee recalls that the Commission of Inquiry had observed that the Roma minority, and to a lesser extent the Magyar minority, are the two groups against whom discrimination was systematically practised. In its previous comments, the Committee had noted that a series of measures had been taken to improve the status of these two groups including the adoption of the Declaration of the Government on national minorities, the constitutional provision for minorities to be educated in their mother tongue and the adoption of a programme aimed at improving the socio-economic status of the Roma and solving their problem of employment. The Committee had welcomed these measures, but at the same time it had underlined the importance of their application in practice.

3. The Committee notes with interest from the information supplied by the Government that an extensive mother tongue education programme for the Magyar minority has been developed, including an increase in the number of sectors where the Magyar language is taught; the instruction of future secondary-school teachers so as to prepare them to teach in Magyar mother tongue schools; and the offering of classes in Magyar mother tongue at the University of Cluj. The Committee also notes that special classes for the Roma minority students have been established in several secondary schools so as to prepare them to teach in Roma mother tongue schools. The Committee requests the Government to continue to furnish information on the measures taken to provide educational instruction and vocational training which meet the linguistic needs of the Magyar and Roma minorities. It also requests the Government to supply a copy of Government Decision No. 461 referred to in the Government's report.

4. With regard to the implementation of the programme to improve the socio-economic position of the Roma, the Government reports that special vocational training and retraining courses are organized for the Roma in three districts; training courses for the Roma in social services counselling, education and health have taken place; private industries have been brought into four Roma districts; 14 houses are currently under construction in one Roma district; the Romanian branch of the cultural foundation "Rromani-Baht" has been established; and the number of Roma cultural publications has increased. The Government also refers to a proposal for the establishment of a State Inspectorate for the Integration and Social Protection of the Roma, which would coordinate and assist in carrying out programmes aimed at improving the socio-economic status of this group.

5. The Committee notes the above information with interest and would be grateful if the Government would continue to provide information on the implementation of the programme including details on its results in terms of the employment situation of the Roma. Specifically, with respect to the establishment of private industries in the four districts, please indicate the number of jobs created for the Roma as a result of such action. The Committee would also be grateful if the Government would provide information on the establishment of the State Inspectorate and the manner in which the representatives of the Roma participated in the formulation of this proposal and how they will be associated with the activities of the Inspectorate.

Dissemination of information to promote equality of opportunity and treatment in employment

6. The Committee notes the Government's statement that copies of the conclusions and recommendations of the Commission of Inquiry in Romanian will be distributed to employers' and workers' organizations, employment offices and other institutions and it hopes that the Government will be able to indicate at the Conference in June 1993 that this has been done and that it will provide full particulars in its next report.

7. The Committee notes from the Government's report that, in order to promote a better understanding of how to implement the principles of equality in employment, copies of the Draft Guide of Practice for Equal Opportunity in Employment, prepared by the International Labour Office, have been translated into Romanian and distributed to local employment services. The Committee would be grateful if the Government would continue to furnish information on the measures taken to further understanding of the principles contained in the Convention and to foster understanding and tolerance between various groups of the population.

Measures of redress

8. The Committee again requests the Government to provide information on the measures taken to give effect to the following

recommendations made by the Commission of Inquiry: Recommendations No. 4 (effect of past discrimination), No. 6 (concerning the Government's guarantee of an efficient and impartial follow-up to the requests for medical examination made by the persons who went on strike and had been rehabilitated by the courts), No. 7 (the reinstatement of workers who had lost their jobs as a result of being arrested for the June 1990 demonstrations) and No. 20 (reparation for discrimination suffered by national minorities or by persons persecuted for political reasons).

The situation of women workers

9. The Committee notes with concern that it has once again not received information on the situation of women in employment and occupation. It requests the Government to provide information including statistics on the measures taken to prevent discrimination on the ground of sex and to promote equality of opportunity and treatment between men and women, and on the situation of women workers with regard to:

- access to vocational training or retraining;
- access to employment and to particular occupations;
- terms and conditions of employment;
- security of employment.

Cooperation of workers' and employers' organizations

10. The Committee requests the Government to indicate the manner in which it seeks the cooperation of employers' and workers' organizations and other appropriate bodies in securing application of the Convention.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Russian Federation (ratification: 1961)

1. (i) The Committee notes that the Law of the Russian Federation Amending and Supplementing the Labour Code of the RSFSR, dated 25 September 1992, amends section 16 of the Labour Code to provide that any direct or indirect restriction of rights and any direct or indirect establishment of advantages in employment based on sex, race, nationality, language, social origin, material status, place of residence, religious convictions, membership in social organizations or other grounds which are unrelated to the performance of the work, are prohibited. The Committee thus observes that the Labour Code, as amended, covers the grounds of discrimination set out in Article 1, paragraph 1(a), of the Convention with the exception of political opinion. The Committee further notes that the Law on Population Employment in the Russian Federation, as modified by Decree No. 3306-1 of the Supreme Soviet of the Russian Federation, dated 15 July 1992, provides, in section 5, that state policy in the field of employment shall be directed at ensuring equal opportunities to all citizens irrespective of nationality, sex, age, social status,

political convictions and religious attitudes in exercising their right to work and free choice of employment, thus covering the grounds of discrimination listed in Article 1, paragraph 1(a), with the exception of race.

(ii) In previous observations, the Committee had noted the repeal of provisions referring to the leading role of the Communist Party and provisions imposing political and ideological requirements for selection to employment. While noting that ensuring equal opportunities on the grounds of, inter alia, political opinion is stated as a national policy directive in the above-mentioned Law, it observes that no provision appears to create binding obligations against discrimination on the basis of political opinion in terms of access to employment. The Committee therefore hopes that the Government will be able to report in the near future that the Labour Code has been amended to include political opinion as a prohibited ground of discrimination.

(iii) The Committee would also be grateful if the Government would provide information on the measures taken to ensure that the promotion of equal opportunity in state policy pursuant to the provisions of the Law on Population Employment in the Russian Federation is also directed at persons belonging to different racial groups.

2. Noting that the Russian Federation is still in the process of elaborating a Constitution, the Committee trusts that due consideration will be given to the requirements of the Convention in the new Constitution.

3. The Committee is raising other points in a request addressed directly to the Government.

Rwanda (ratification: 1982)

The Committee notes the Government's reply to its previous observation.

1. In its previous comments, the Committee had noted that certificates of good conduct, living and morals are required by the labour administration before any person begins to work for wages and that when the communal authority considers that the person concerned may be suspected of carrying on an activity prejudicial to the security of the State, it refuses to issue these certificates without having to base its refusal on any provisions or procedures in this respect.

The Committee notes that, according to the Government, the question has been submitted to the Ministry of the Interior and of Communal Development for examination and appropriate follow-up. It hopes that the next report will indicate the measures taken or envisaged as a result of this examination so as to ensure that a person may be refused employment only for reasons linked to the security of the State within the limits prescribed by Articles 1, paragraph 2, and 4 of the Convention, and subject to the right of appeal set out in Article 4. In this regard, the Committee recalls paragraphs 134 to 138 and 104 of its 1988 General Survey on Equality in Employment and Occupation, in particular, where it states "the application of measures intended to protect the security of the State must be examined in the light of the bearing which the activities concerned may have on the actual performance of the job, tasks or occupation of the person concerned. Otherwise, there is a danger, and even likelihood, that such measures entail distinctions and exclusions based on political opinion or religion, which would be contrary to the Convention".

2. In its previous direct requests, the Committee had also referred to section 5 of the Legislative Decree of 19 March 1974 respecting General Regulations for State Employees and section 6 of Presidential Order No. 227/01 of 20 December 1976 respecting Regulations for Personnel of Public Enterprises, which include among recruitment criteria "good conduct, living and morals" and "loyalty to the authorities and national institutions".

Noting the Government's reply that this proof of loyalty is treated in the same way as certificates of good conduct, living and morals, the issuance of which is at the discretion of the communal authority, the Committee refers back to its comments under point I of this observation. In addition, it observes that the requirement of "loyalty to the authorities and national institutions" should not be interpreted in practice in such a way as to justify any distinction, exclusion or preference based on political opinion as regards access to employment in the public service or in public enterprises. Indeed, while it is accepted under Article 1, paragraph 2, of the Convention that political opinion may be taken into account for certain senior posts directly related to the implementation of government policy, this is not the case when criteria of a political nature are laid down for all types of public employment in general or in certain other occupations, as for example, when it is stipulated that the persons concerned must formally declare themselves and show themselves faithful to the political principles of the regime in power.

Consequently, the Committee trusts that the Government will supply in its next report information on the application in practice of the provisions referred to above and, in particular, on the number of cases and the type of employment where these provisions have been used.

3. The Committee requests the Government to refer also to the request it is addressing directly to the Government on the application of other aspects of the Convention.

Saudi Arabia (ratification: 1978)

The Committee notes the information supplied by the Government in its report in reply to its previous comments.

1. The Committee had requested the Government to supply information on the measures taken in practice to give effect to Islamic law (Sharia) and to guarantee the application of the principle of non-discrimination set out in the Convention. The Committee notes that the Government reiterates its previous statement to the effect that Islamic law represents the Constitution and the basic law of Saudi Arabia, and that the legislation has to be in accordance with its principles, which advocate equality and justice. The Government states that the provisions of the Labour Code are inspired by the

above principles and contain no discrimination on grounds of origin, colour, sex or religion.

The Committee wishes to emphasize that, in accordance with Article 3(b), (c), (e) and (f) of the Convention, the Government is bound to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of a national policy to promote equality of opportunity and treatment; to pursue the above policy in respect of employment under the direct control of a national authority; to ensure observance of the above policy in the activities of vocational guidance, vocational training and placement services; and to indicate the action taken in pursuance of this policy and the results secured by such action.

2. The Committee notes that, according to the Government's report, the prohibition on mixed workforces laid down in section 160 of the Labour Code, under which "in no case may men and women co-mingle in the place of employment or in the accessory facilities or other appurtances thereto", does not constitute a condition for employment or the determination of occupations and therefore has no relation to or effect upon the rules relating to equality of opportunity in employment and occupation, but is a measure subsequent to recruitment dictated by the traditions in force in Saudi Arabia. The Committee observes that the prohibition on men and women being side by side at the workplace has the effect of prejudicing equality of opportunity and treatment between men and women and is therefore incompatible with the policy provided for by the Convention, since it considerably limits the access of women to employment in practice by permitting their employment only where they are in contact only with other women. This is confirmed by the Government's statement that women are only admitted to occupations which suit their nature and which are not contrary to the traditions in force in the Kingdom or to the teachings of the Islamic religion. The Committee would therefore be grateful if the Government would indicate the measures which have been taken or are envisaged to repeal section 160 of the Labour Code, in accordance with Article 3(c) of the Convention.

3. With regard to the promotion of equality in the field of vocational training, the Committee notes that, according to the report, the Government gives special importance to technical and vocational training for both men and women, but that for women the emphasis is placed on activities which are appropriate to their physical nature and the social and occupational activities which interest them the most, taking into consideration the fact that they consider that their primary function is to be wives and mothers. The Government points out that, when women wish to work, they are only admitted to occupations which are appropriate to their nature and which are not contrary to the traditions and teachings of the Islamic religion. The Government mentions, among the fields in which women receive training, teacher training in preparation for education, training for nursing and other auxiliary health occupations, and sewing. It gives statistics on the numbers of girls and boys undergoing training for the education and health sectors and in sewing.

The Committee refers to paragraph 38 of its 1988 General Survey on Equality in Employment and Occupation in which it refers to archaic and stereotyped concepts with regard to the respective roles of men and women, which are at the origin of types of discrimination based on sex and occupational segregation according to sex which leads to the concentration of men and women in different occupations and sectors of activity. It requests the Government to indicate in its next report the measures which have been taken or are envisaged to ensure that girls have access to types of training which lead to occupations and responsibilities which are open to boys, including training for occupations and activities which are not traditionally considered to be feminine. Please state in particular whether women have access to training for the occupations of doctor and magistrate.

4. The Committee notes the Government's statement that the Ministry of Labour is about to complete a study concerning the adoption of a ministerial order to determine the hazardous occupations and activities forbidden to women and young persons. The Committee requests the Government to supply a copy of the above ministerial order as soon as it is adopted.

5. The Committee notes that the Government does not have at its disposal statistics on the respective numbers of men and women in the active population and their distribution by sector and occupation. The Committee observes, nevertheless, that global statistics have been quoted showing the number of women employed in the public administration to be 152,957, representing 22 per cent of all posts. It also notes that, according to the statistics supplied by the Government in its report on Convention No. 100, the percentage of women employed in the public administration varies between 8 per cent (for employees) to 48 per cent (for teachers). The Committee consequently asks the Government to supply information in its next report on the positive measures which have been taken to promote the access of women to employment, and in particular to employment in the public sector, in view of the low overall percentage of women employed in that sector.

Sierra Leone (ratification: 1966)

1. With reference to its previous comments concerning discrimination in employment on the basis of political opinion, the Committee notes with interest the adoption of the new Constitution (Act No. 6 of 1991), which no longer makes provision for a one-party system and does not reserve certain high public offices to members of the recognized party. The Committee also notes with interest that article 8(3) of the new Constitution directs state policy towards ensuring that every citizen, without distinction on any grounds whatsoever, should have the opportunity for securing adequate means of livelihood and adequate opportunities to secure suitable employment and that article 15 lays down certain fundamental human rights and freedoms for all individuals irrespective of race, tribe, place of origin, political opinion, colour, creed or sex.

2. With reference to its previous observations concerning the lack of a national policy to promote equality of treatment in employment and occupation and in terms and conditions of employment, the Committee notes the Government's statement in its latest report that there have been no changes in the implementation of the

Convention. Recalling Article 2 of the Convention, the Committee stresses again that the application of the Convention requires the adoption of positive measures in pursuance of a national policy designed to promote equality of opportunity. In the light of article 8(3) of the new Constitution, the Committee requests the Government to supply information on the points to be covered by such a policy in connection with the principle of equality of opportunity in employment and occupation and in education, which are again considered in more detail in a request addressed directly to the Government.

Recalling that the Government intended to seek the views of the Tripartite Joint Consultative Committee, as soon as it convened, regarding possible ways to promote the aims of the Convention, the Committee notes from the Government's report that this matter remains before the Tripartite Joint Consultative Committee and that the Government will provide information on any changes in the situation. The Committee again expresses the hope that the Government will provide full information in the near future on the pertinent issues raised in the direct request which, it trusts, has been brought to the attention of the Consultative Committee.

Spain (ratification: 1967)

Referring to its previous comments, the Committee notes the detailed information supplied by the Government in its report and the attached documentation. The Committee also notes the observations submitted by the General Union of Workers (UGT), which the Government transmitted in its report together with its own comments.

1. The Committee notes with interest the adoption of new legislative measures designed to enforce standards of non-discrimination in employment, particularly section 96 of the Labour Procedure Act (promulgated by Legislative Decree No. 521 of 27 April 1990), which reverses the burden of proof by requiring defendant employers to demonstrate a reasonable, objective and sufficiently proven justification for the measures taken and their proportionality in cases where it appears from the allegations that there exist elements of discrimination on the ground of sex. It requests the Government to provide information on the application in practice of the new procedure.

2. The Committee notes from the latest statistics provided that women have improved their situation in the labour market relative to men. It requests the Government to continue supplying information on all progress achieved with regard to women in the labour market.

3. The Committee nevertheless again notes the concern expressed by the UGT over the persistence of discrimination against women. In particular, the UGT observes that, irrespective of ability and training, women are still denied promotions to certain posts traditionally held by men; they are subjected to discrimination on account of maternity (employers dismiss women or do not renew their contracts on account of pregnancy, and in certain situations, employers offer temporary workers employment for an indefinite period if they relinquish their maternity rights); they still earn lower wages than those of men in the same occupational category and are

employed in lower categories with low pay. The Committee notes that, in response to the UGT's comments, the Government places emphasis on the procedures of redress available to victims of such discrimination. It also notes in this respect that the statistical data supplied by the Government on labour inspection activities for the enforcement of legal provisions are general and do not specify the activities and infractions relating to the principle of equal opportunity and treatment in employment.

The Committee notes the grievance procedures available and requests the Government to continue to provide information on court cases concerning discrimination where these procedures are used. It also requests the Government to provide information on the measures taken by the labour inspectorate to provide disaggregated statistics so as to show its efforts in enforcing the legislation prohibiting discrimination in employment based on sex and promoting the observance of the principle of equality of opportunity in employment, along the lines of cooperation and sensitization set out in Article 3(a) of the Convention.

4. The Committee notes that the UGT also expresses concern over the lack of remedial procedures for the victims of sexual harassment in the workplace, who are overwhelmingly women, and that in response thereto, the Government refers to Act No. 3 of 3 March 1989, which amends section 4(2)(e) of the Workers' Charter of 1980 to afford workers protection against verbal offences or physical conduct which are sexual in nature.

The Committee requests the Government to provide information on the complaints procedures available under the Workers' Charter in the event of allegations of conduct implying sexual harassment, as well as information on any other measures to protect persons against retaliatory action when they complain to the competent authorities or initiate legal action to enforce their rights in this respect.

5. Regarding the comments made in 1989 by the Trade Union Confederation of Workers' Commissions that workers of colour and workers of Muslim origin in the Catalan region of Maresme and in Ceuta and Melilla were subject to lower conditions of employment than other Spanish workers, the Committee notes the statistics supplied on the number of inspection visits carried out and violations found in 1991, as well as the creation of a programme aimed at eliminating racism and xenophobia through sensitization campaigns. The Committee asks the Government to continue supplying information on other measures that have been taken to ensure that, in practice, workers of colour and those of Muslim origin who have acquired Spanish nationality are not subject to any discrimination in employment in accordance with the Convention.

6. The Committee notes the comments provided by the UGT and the Government's response on the situation of foreign workers employed legally and residing in Spain. It refers to the observation it is making in this respect under Convention No. 97.

7. The Committee notes the comments of the UGT on the non-observance of the Act on social integration of the disabled, which reserves for disabled workers at least 2 per cent of the jobs in enterprises employing more than 50 workers. It also notes the statement that workers infected with the HIV virus are discriminated

against and are subject to dismissal or non-renewal of their contracts; in certain enterprises, HIV tests are made without a person's knowledge or consent, in order to refuse employment to persons who are HIV positive. In due course, the Committee will deal with the comments concerning the employment of disabled persons in the framework of Convention No. 159, which has been recently ratified by Spain. As regards the allegations of discrimination against persons infected with the HIV virus, the Committee notes the Government's reply that such discrimination would be contrary to article 14 of the Constitution, which states the general principle of equality before the law, and to section 4(2)(c) of the Workers' Charter, which prohibits any discrimination on grounds of physical, mental or sensory handicap if the worker has the necessary skills to do the job or engage in the employment in question. Such discrimination would be prosecuted by the labour inspectorate.

Noting that by virtue of section 4(2)(c) of the Workers' Charter, physical handicap has been determined as a ground of discrimination, as envisaged in Article 1, paragraph 1(b), of the Convention, the Committee would be grateful if the Government would indicate the measures which have been taken or are envisaged to ensure that article 14 of the Constitution and section 4(2)(c) of the Workers' Charter are observed in respect of persons who are HIV positive or infected with AIDS. Please indicate whether specific laws or regulations have been adopted particularly in regard to testing and preventive measures, and whether special guidance has been given to employers and to the labour inspectorate. Please communicate information on the results of the work of the labour inspectorate in this regard and copies of any relevant court decisions.

Sudan (ratification: 1970)

The Committee notes the information supplied by the Government in reply to its previous observation.

1. The Committee had noted that the 1985 Constitution, article 17 of which provided for equality of opportunity in employment without discrimination on the basis of origin, race, colour, sex, religion or political opinion, had been suspended and that there was no legislative provision in force prohibiting discrimination on the grounds covered by the Convention. The Committee notes with interest that in the framework of the revision of the labour legislation, a provision giving express effect to the Convention will be included in the legislation. It hopes that the Government will be able, in its next report, to indicate the progress made in this connection and that it will supply a copy of any legislation adopted to implement the provisions of the Convention.

2. The Committee notes that section 6(c)(6) of Constitutional Decree No. 2 of 30 June 1989, which declared a state of emergency throughout the Sudan and dissolved all political parties and trade unions, provides that measures may be taken to terminate the service of any public employee and every contract with a public office, while preserving the rights to service benefits or compensation.

The Committee recalls that under Article 4 of the Convention measures intended to safeguard the security of the State must be sufficiently well defined and delimited to ensure that they do not become discrimination based on any of the grounds precribed in the Convention. As stated in paragraph 136 of the Committee's 1988 General Survey on Equality in Employment and Occupation, the application of such measures must be examined in the light of the bearing which the activities concerned may have on the actual performance of the job, tasks or occupation of the person concerned. Otherwise, there is a danger, and even likelihood, that such measures entail distinctions and exclusions based on political opinion or religion, which would be contrary to the Convention.

In view of the very general wording of section 6(c)(6) of Constitutional Decree No. 2, the Committee requests the Government to supply full information in its next report on the practical application of this provision and, in particular, on the number of persons whose service was terminated, the functions occupied by them, the reasons for their termination and the right of appeal available to them.

3. Regarding measures taken to eliminate discrimination and to promote equality of opportunity and treatment in employment, particularly in respect of employment under the direct control of a national authority, the Committee notes the Government's statement that it intends to set up selection committees for the public service in all the regions of Sudan and that access to the public service is open to all Sudanese without discrimination whatsoever apart from the requirements of competence and qualifications.

The Committee would appreciate receiving information on the measures taken by the selection committees to promote equality of opportunity and treatment in the public service, as well as statistical data on the number of persons employed in the public service, by occupations and levels of responsibilities, disaggregated by sex, and, if available, national extraction and religion.

The Committee also requests the Government to indicate the measures taken to ensure the implementation in the private sector of a policy of non-discrimination and of promotion of equality in employment irrespective in particular of sex, race, colour, religion and national extraction. It would appreciate receiving the statistical data requested above on employment in the private sector.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Sweden (ratification: 1962)

The Committee notes that the Government's report has not been received.

1. Nevertheless, it notes with interest the adoption of the Equal Opportunities Act, No. 443 of 30 May 1991, which prohibits indirect discrimination and harassment; places the obligation on an employer to counteract sexual harassment or harassment stemming from the filing of a complaint alleging discrimination based on sex; requires employers and workers to cooperate to attain equality at

work; and obliges employers with ten or more employees to prepare an annual plan for the promotion of equal opportunities at work. The Act also provides that its provisions may be applied by collective agreements concluded or approved by a central workers' organization. The Committee would be grateful if the Government would supply, in its next report, information on the application in practice of the Act and, in particular, the enforcement activities of the Equal Opportunities Ombudsman and the Equal Opportunities Board and the annual plans for the promotion of equal opportunities at work. It also requests the Government to forward any copies of collective agreements which contain provisions relevant to the promotion of equal opportunity, in accordance with the new Equal Opportunities Act.

2. The Committee also refers the Government to the following points raised in its previous observation:

Measures against ethnic discrimination. (i) The Committee notes that the Discrimination Ombudsman (DO) took part in trade union activities on the central, regional and local levels, and in various training activities for employment counsellors and placement officers and raised questions of harassment with employers' and workers' organizations. The Committee notes with interest that in December 1989, the DO submitted to the Government draft legislation against ethnic discrimination at work which would extend the ban on ethnic discrimination to the entire labour market and to employment of all kinds. The Committee notes the statement in the report that refusal of employment remains the most common problem facing immigrants in the employment sector and that the need for legislation in this field has been accentuated. The Committee requests the Government to report on the status of the draft legislation and its prospects of adoption.

(ii) The Committee notes with interest that the Commission Against Racism and Xenophobia completed its work in March 1989 and recommended that a law against ethnic discrimination in working life should be reconsidered. It further notes that, on the basis of the report, the Government introduced a Bill in February 1990 (1989/90:86) containing its assessment of the existence of discrimination on ethnic grounds and the need for measures designed to further good ethnic relations. The Committee would be grateful if the Government would supply a copy of the Commission's report along with a copy of the proposed Bill. It also requests the Government to clarify the difference in the provisions between this Bill and the one proposed by the Discrimination Ombudsman referred to above.

(iii) The Committee notes that in May 1990, the Government set up a Commission to Study Measures Against Ethnic Discrimination which, among other things, was to examine the need for a special law proscribing ethnic discrimination in working life and to present proposals for such a law. This study was to be undertaken in close consultation with the concerned parties in the labour market and its report should have been ready in 1992. The Committee requests the Government to provide information on the contents of the report and its recommendations, particularly in relation to the above mentioned Bill submitted by the

Government and the draft legislation proposed by the Discrimination Ombudsman.

Article 4 of the Convention. (iv) The Committee notes from the Government's report that the Swedish ILO Committee has expressed its concern over a possible discrepancy between proposed Swedish rules on the screening of personnel and this Article of the Convention. Accordingly, that Committee drew the matter to the attention of the Parliamentary Commission (SAPO-kommitten), to which the report containing the proposals on the screening of personnel was presented, and subsequently raised the same concern with the Ministry of Public Administration. The Committee hopes that the adoption of any personnel rules will be in full conformity with the requirements of this Article of the Convention. It further requests the Government to supply a copy of the relevant proposals contained in the Commission's report.

3. The Committee is addressing a request on other matters directly to the Government.

Switzerland (ratification: 1961)

Referring to its previous observations, the Committee takes note of the detailed information and documentation supplied by the Government in its report. It also notes the observations on the application of the Convention presented by the Trade Union Confederation of Switzerland (USS).

1. The Committee notes with interest that the Federal Office for Equality between men and women has undertaken many activities, including the organization of inquiries, information campaigns and conferences; the examination of draft laws and other related measures; and advisory and mediation services. The Committee requests the Government to continue to supply this kind of information, in particular the results of the current inquiries into sexual harassment, the extension of promotional measures in favour of women to enterprises and the vocational training models aimed at young adults.

2. The Committee notes with interest that cantonal equality offices have been established in many cantons and that others are about to be opened. It again requests the Government to supply information on the activities undertaken and the results achieved by these offices regarding the promotion of equality of opportunity and treatment in the fields of (a) access to vocational training; (b) access to employment and to particular occupations; and (c) terms and conditions of employment.

3. With reference to the legislative programme for equality between men and women, the Committee notes that the draft Federal Bill on Equality between men and women, which was the subject of wide consultation throughout 1991, was to have been presented to Parliament by the Federal Council in December 1992, in the form of a single Act applying to all workers in the private and public sectors. The Committee notes that the USS points out that this draft has still not been transmitted to Parliament, despite the double consultation which

had brought to light the general support for it, except from the employers' organizations.

The Committee hopes that the Bill, which provides a general prohibition of all discrimination based on sex and increased protection against dismissal, will be adopted in the near future and that the Government will supply the text as soon as it is promulgated.

4. The Committee notes the Government's indication that work on the revision of the Labour Act is still continuing and that it aims at eliminating the special provisions regarding working time and rest for female workers, which are contrary to the constitutional principle of equality of the sexes and which disadvantage women in the labour market. The Committee asks the Government to continue to provide information concerning progress made towards the revision of the Labour Act and to indicate its impact in the field of equality of opportunity and treatment in employment and occupation.

5. The Committee is addressing a request directly to the Government on aspects of the application of this Convention.

Turkey (ratification: 1967)

1. The Committee takes note of the discussions in the Conference Committee in 1991, the Government's report and attached documentation, and the appended comments received from the Turkish Confederation of Employers' Associations and the Confederation of Turkish Unions (TURK-IS). In its comments, the Turkish Confederation of Employers' Associations expressed its agreement with the information and explanations given in the 1991 Conference Committee by the Turkish Government representative. TURK-IS, in its comments, questioned whether anything had been done to replace or amend Law No. 1402 respecting martial law and it hoped that this Committee would continue to follow up on the application of the Security Investigation Regulations adopted in 1990.

Position of public servants dismissed or transferred between 1980 and 1987 during the period of martial law

2. In its 1991 observation, the Committee had noted the adoption of the Council of State ruling on 7 December 1989, which concluded that civil servants, other public employees and workers in public services whose employment had been terminated on demand of martial law commanders, pursuant to Martial Law Act No. 1402, will have to be reinstated in their jobs by the institutions concerned in the regions where their employment was terminated, provided that they have not lost the qualifications required at the time of their first appointment. The Committee had also noted from the opinion of the Attorney-General of the Council of State that the decisions of martial law commanders on dismissals and transfers in employment under Act No. 1402 were considered not to be in compliance with Article 4 of Convention No. 111. The Committee hoped that the ruling would be fully applied to the benefit of all persons whose employment had been

affected, and that the contents of the ruling would be taken into consideration in the amendments to the Martial Law Act.

3. The Committee notes from the information given in the Conference Commmittee in 1991 and from the Government's report that the Council of State ruling continues to be implemented, and that applications for reinstatement continue to be processed in accordance with the terms of the ruling.

4. The Committee notes with satisfaction the Government's statement that 68 of the 72 university faculty members who had requested reinstatement had been returned to their former positions as a result of measures taken, including the creation of additional posts, in accordance with the Council of State ruling. The Government reports that, of the remaining four faculty members who had been denied reinstatement, one had lost his qualifications as a civil servant; the court had ruled against the reinstatement of the second; the third had not completed the necessary documents; and the fourth had already reached retirement age.

5. The Committee had asked the Government to supply detailed information on the 358 public servants who had been dismissed under martial law and who had had their requests for reinstatement denied. It had also requested clarification on the meaning of sections 48 and 98 of the Civil Servants Act No. 657 which had been mentioned as the legal obstacle to the reinstatement of these persons. The Committee takes note of the clarifications provided by the Government in this regard. It notes with interest that, as a result of the adoption of the Fight Against Terrorism Act, No. 3713 of 12 April 1991, 161 officials had had their rights restored, and additional applications for reinstatement are being processed. According to the Government, the 197 public servants who were not yet reinstated were still under sentence, or they had been convicted for degrading offences such as bribery, theft, embezzlement and fraud, as set out in Act No. 657. The Committee hopes that the applications which continue to be processed are evaluated in accordance with the Council of State ruling and that, in its next report, the Government will continue to keep the Committee informed on the employment status of the officials whose requests for reinstatement had been denied.

6. The Committee had noted that the Council of State ruling had removed the obstacles preventing the persons who had been transferred to other regions during martial law from returning to their place of origin. The Committee had requested the Government to provide, in respect of the 4,870 persons who had been transferred, specific information and statistics on their return. The Committee notes the Government's indications that some of the transferees had returned to the posts they had previously occupied by means of normal legal procedures, others through the Council of State ruling and others by direct application. The Government reports that no appeals or requests are outstanding. The Committee must once again repeat its request for more specific information and statistics on the persons who have returned to their previous regions and positions.

7. The Committee had requested information on the compensation received by all persons whose employment was affected by decisions under Act No. 1402, who have filed for compensation for losses and who have received judgements in their favour. The Committee notes the

Government's general statement that all reinstated people have been compensated. It must, however, again request more specific information on the number of people who filed for compensation, including those who did not seek or receive reinstatement, the judgements rendered and the enforcement of those judgements.

Proposed amendments to Act No. 1402 respecting martial law

8. The Committee notes from the Government's report that the bill to amend Act No. 1402, which had been the subject of previous comments, had become obsolete since it was not enacted before the expiry of the Parliamentary Session (before the general elections held in October 1991). The Committee further notes that a new bill, drafted by the Ministry of Justice, was submitted to the Council of Ministers in October 1992 and is expected to be brought before Parliament in early 1993. The Government reports that the new bill will repeal section 2 of Act No. 1402, which empowers the martial law commanders to request dismissal or transfer of public servants to other regions, and that the bill will require reinstatement, return to place of origin and compensation for those so transferred or dismissed. The Committee trusts that the Government will be able to report that this section has been repealed as requested by the Committee for many years.

9. The Committee also trusts that appropriate amendment will be made to section 3(d) of Act No. 1402, which permits the expulsion of persons who are considered a threat to national security or public order for five years, so as to ensure that the measures intended to safeguard the security of the State are sufficiently defined and delimited so as not to lead to discrimination on the basis, inter alia, of political opinion. In this regard, the Committee again points that the right of appeal under article 125 of the Constitution alone is insufficient to ensure such protection. The Committee hopes that these considerations, which it has found to be reflected in the opinion of the Attorney-General of the Council of State, will be taken fully into account in the final text of the legislation. It hopes that the Government will be able to indicate the progress made in the adoption of the appropriate amendments to the Martial Law Act in its next report.

10. The Committee notes with interest that a Human Rights Commission had been established pursuant to Act No. 3586 of 5 December 1990 and had begun to review Act No. 1402. The Committee requests the Government to indicate whether the Commission is still in existence and, if so, its duties and powers including the review of this or any other piece of legislation, and any decisions issued.

11. The Government also reports that the new bill to amend Act No. 1402 will limit security investigations carried out for public service personnel to those who handle classified documents and who have access to high security units, and will ban any such investigations for the rest of the personnel or recruits. It will require a clear definition of what types of documents and information will jeopardize state security and persons who have been denied employment or dismissed due to the outcome of security investigations

after 12 September 1980 will be recruited or reinstated, provided that they are still qualified. The Government also reports that the determination of the authorities who will carry out security investigations is envisaged to be set out in a separate regulation.

12. The Committee notes the above information and its apparent relation to the contents of the Security Investigation Regulation adopted on 8 March 1990. In this regard, the Committee refers to its comment below and requests the Government to indicate whether the new bill will amend the Security Regulation as well as Act No. 1402 and, if not, what measures are contemplated to ensure that the above specific provisions would not be rendered superfluous by virtue of the application of the more general Security Regulation discussed below.

Measures taken on the basis of security investigations

13. The Committee refers to its previous comment on the provisions of the Security Investigation Regulation of 8 March 1990, in which it noted the broad scope of the Regulation (including all personnel to be employed in ministries and other public institutions and organizations); its wide application (including ideological and subversive activities and relations with foreigners); and its broad definitions (including the terms "archives research", "security investigation" and "subversive activities"). The Committee requested the Government to indicate the measures taken to ensure that rejection or transfer in employment pursuant to the application of the Regulation is not based on political opinion or on any other ground which would constitute discrimination under the Convention.

14. The Committee notes the Government's statement that the provisions of the Fight Against Terrorism Act adopted on 12 April 1991 endow the Regulation with greater objectivity, and that all actions taken under the provisions of the Security Investigation Regulation are subject to judicial review pursuant to article 125 of the Constitution and pursuant to the Law Concerning the Procedure of Administrative Trials, No. 2577. The Committee observes that the provisions of the Fight Against Terrorism Act, particularly its definition of terrorism (section 1) and its definition of propaganda (section 8), are too broad to provide sufficient specificity or objectivity for application of the Security Regulation. (See more details on the Fight Against Terrorism Act set out below.) It must also point out that the provisions of a right of appeal would not be sufficient to meet the requirements of Article 4 of the Convention unless the measures intended to safeguard the security of the State were sufficiently defined and delimited so as not to lead to discrimination based on political opinion or any other prohibited ground. The Committee must therefore reiterate its request to the Government to indicate the measures taken or envisaged to ensure that the application of the Regulation would not constitute discrimination under the Convention. The Committee also requests the Government to indicate how many persons have been denied or have lost employment as a result of the application of the Regulation.

Fight Against Terrorism Act of 12 April 1991

15. The Committee notes with interest the provisions of the Fight Against Terrorism Act, which remove previously stipulated capital sentences, reduce and commute other sentences, decriminalize the use of the Kurdish language and repeal certain provisions in the Penal Code.

16. The Committee notes with concern, however, that the Act has introduced a very broad definition of terrorism and of propaganda and that both carry sentences of imprisonment. Section 1 defines terrorism as any kind of action conducted by one or several persons belonging to an organization (defined as two or more people with common aim) with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by any one method of pressure, force and violence, terrification, intimidation, oppression or threat. Section 8 provides that written and oral propaganda and assemblies, meetings and demonstrations aiming at damaging the indivisible unity of the State of the Turkish Republic with its territory and nation are forbidden, regardless of the method, intention and ideas behind it.

17. While punishment under this Act may be subject to appeal, the Committee observes that the broad definitions used would not appear to lay down sufficient criteria upon which protection against imprisonment based on political opinion or some other ground in the Convention would be ensured. The Committee requests the Government to indicate the measures taken to ensure that persons are not deprived of employment through imprisonment under this Act as a result of discrimination on any of the grounds set out in the Convention, and whether the above provisions of this Act have come under review by the Constitutional Court.

Ukraine (ratification: 1961)

The Committee notes the information contained in the Government's report as well as information contained in a letter dated 2 December 1991 from the Permanent Representative of Ukraine to the United Nations Office in Geneva submitted to the 47th Session of the UN Commission on Human Rights (E/CN.4/1992/59) and the Twelfth Periodic Report of Ukraine submitted to the UN Committee on the Elimination of Racial Discrimination on 16 October 1992 (CERD/C/226/Add.3).

1. The Committee notes with satisfaction new section 2-1 of the Labour Code of Ukraine added in 1991 which guarantees equal employment rights for all citizens irrespective of their origin, social or material circumstance, race, nationality, sex, language, political and religious convictions, occupation, place of domicile or any other circumstance in accordance with the grounds set out in Article 1,

paragraph 1(a), of the Convention and section 17 which makes it unlawful to deny an individual employment without proper justification.

2. The Committee notes with interest the adoption on 1 March 1991 of the Population Employment Act of Ukraine which, in section 3, guarantees to all citizens equal opportunities and the right of free choice of activities irrespective of origin, social and material circumstance, race, nationality, sex, age, political convictions and attitude toward religion, taking into account abilities and professional training, and which, in section 6, extends these guarantees to foreign persons residing permanently in Ukraine and to other non-citizens unless otherwise regulated by law.

3. The Committee also notes with interest the adoption of the Declaration of the Rights of Nationalities in Ukraine by the Supreme Council of Ukraine which, inter alia, provides that discrimination on grounds of national traits is prohibited and punishable by law (section 1) and which guarantees all peoples and national groups the right to make free use of their native languages in all areas of public life, including education, production and the acquisition and distribution of information (section 3). The Committee requests the Government to indicate the measures taken to implement these provisions of the Declaration and any impact it may have on the promotion of employment opportunities for minority groups in Ukraine.

4. The Committee notes the adoption on 17 April 1991 of the Law to Provide Rehabilitation to Victims of Political Repression in Ukraine and would be grateful if the Government would provide information on the measures taken to implement its provisions and the results achieved in respect of compensation for loss of employment and related benefits.

5. The Committee notes that a new draft Constitution of Ukraine is still in preparation which will, according to the Government, comply with the provisions of Article 1 of the Convention. It trusts that the Government will communicate a copy of the final version to the Office upon its adoption.

6. The Committee is raising other points in a request addressed directly to the Government.

Zambia (ratification: 1979)

With reference to its previous comments regarding the need to amend the Industrial Relations Act, 1971 in light of the new Constitution, so as to provide protection against discrimination in access to employment on the basis of political opinion, the Committee notes with satisfaction that under section 129(2) of the Industrial Relations Act No. 36 of 1990 (which repeals and replaces the Industrial Relations Act, 1971), any prospective employee who has reasonable cause to believe that he has been discriminated against on the grounds of his political opinion or affiliation, may lay a complaint before the Industrial Relations Court.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Algeria, Angola, Antigua and Barbuda, Australia, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia, Brazil, Burkina Faso, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, India, Iraq, Italy, Jamaica, Jordan, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Malta, Mauritania, Mexico, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Pakistan, Panama, Philippines, Poland, Portugal, Qatar, Russian Federation, Rwanda, Saint Lucia, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Uruguay, Yemen, Zambia.

Information supplied by Argentina and San Marino in answer to a direct request has been noted by the Committee.

Convention No. 112: Minimum Age (Fishermen), 1959

Liberia (ratification: 1960)

The Committee notes with regret that the Government's report has not been received. In its previous observations regarding Article 2, paragraph 1, of the Convention, the Committee noted that no minimum age of 15 years for employment in fishing vessels had yet been imposed. It hopes the necessary measures will be taken in the near future.

* * *

In addition, a request regarding certain points is being addressed directly to Suriname.

Convention No. 113: Medical Examination (Fishermen), 1959

Liberia (ratification: 1960)

Further to its general observation, the Committee notes with regret that the Government's report has not been received. In its previous observations, it referred to the need for legislation to give effect to Article 2 of the Convention (requirement of a physical fitness certificate for employment on a fishing vessel), Article 3 (nature of the medical examination), Article 4 (period of validity of certificates) and Article 5 (possibility of a further medical examination). It hopes it will soon be possible to make progress in this respect.

* * *

In addition, a request regarding certain points is being addressed directly to Uruguay.

Convention No. 114: Fishermen's Articles of Agreement, 1959

Cyprus (ratification: 1966)

Further to its previous observations, the Committee notes with interest that the Government has now written to the Office requesting assistance in relation to the present Convention. In its report, the Government refers to various practical and legal difficulties arising in particular from the fact that fishing vessels registered in Cyprus belong to shipowners of various nationalities, using international crews and ports in different countries of the world. The Committee hopes that the Office will be able to assist in this matter and that the Government will indicate all progress made.

Liberia (ratification: 1960)

Further to its general observation, the Committee notes with regret that the Government's report has not been received. In its previous observations it expressed the hope that legislation would be enacted to give effect to the Convention. The Committee hopes it will soon be possible to take the necessary steps.

* * *

In addition, a request regarding certain points is being addressed directly to Mauritania.

Convention No. 115: Radiation Protection, 1960

Brazil (ratification: 1966)

The Committee has noted the information provided in the Government's report for the period 1989-90. It also notes the comments made by the National Commission of Workers in Nuclear Energy (CONTREN) received by the Office on 4 January 1993, concerning the dangerous working conditions to which workers are exposed in the nuclear industry and hopes that the Government will supply detailed information in reply to CONTREN's comments.

The Committee is raising other points in a request addressed directly to the Government.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Paraguay (ratification: 1967)

The Committee notes the information provided in the Government's report and has taken note of resolution No. 678 of 16 July 1979 which establishes standards concerning the risks related to the use of X-rays and radiotherapy. It notes that, by virtue of section 1, this resolution is applicable to work in hospitals, sanatoriums, clinics, dispensaries, dentist and doctor offices, and radiological and anti-cancer centres in which the staff are regularly exposed to X-rays corresponding to an energy level of 1,000,000 electrovolts or less and to radiation from radiotherapy. The Committee would recall, however, that by virtue of Article 2 of the Convention, the provisions of the Convention are to apply to all activities involving exposure of workers to ionizing radiations in the course of work.

The Committee notes the indication in the Government's report that, due to insufficient human, technical and material resources, no measures have been taken to revise dose limits nor to ensure effective protection of workers against the hazards due to ionizing radiations other than the protection afforded by resolution No. 678. The Committee requests the Government to indicate the activities occurring in the country, other than those covered by resolution No. 678, which involve exposure to ionizing radiations and urges the Government to take all necessary measures in the near future to ensure that the provisions of this Convention are applied to all activities involving such exposure. In this regard, the Committee would refer the Government to its general observation of 1992 under this Convention which sets forth, inter alia, the revised maximum dose limits recommended by the International Commission on Radiological Protection in 1990. The Government is requested to supply detailed information on the steps taken or envisaged to ensure the protection of all workers who might be exposed to ionizing radiations, with particular respect to the specific points raised in the Conclusions of the general observation of 1992 (paragraph 35).

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Brazil, Germany, Guyana, Hungary, Iraq, Lebanon, Spain, Sri Lanka, Sweden.

Convention No. 117: Social Policy (Basic Aims and Standards), 1962

Requests regarding certain points are being addressed directly to the following States: Bahamas, Central African Republic, Guatemala, Malta, Venezuela.

Convention No. 118: Equality of Treatment (Social Security), 1962

Barbados (ratification: 1974)

The Committee notes that the Government's report contains no information on the measures taken or under consideration to ensure the full application of the Convention as regards the following point which the Committee has been raising for a number of years in its previous comments:

> Old-age and survivors' benefits and employment injury pensions. Article 49 (in conjunction with Article 48) of the National Insurance and Social Security (Benefits) Regulations 1967 and Article 25 of the Employment Injury (Benefits) Regulations 1970 provide that in the event of the beneficiary residing abroad these benefits shall be paid in Barbados to such representative acting for and on behalf of the person concerned as may be approved by the competent authority. This provision, which appears to deprive the beneficiary of the right to ask for his benefit to be paid to him directly at his place of residence abroad, is not compatible with Article 5 of the Convention, under which any State that, like Barbados, has accepted the obligations of the Convention for branches (e), (f) and (g), must guarantee both to its own nationals and to the nationals of any other Member that has accepted the obligations of the Convention in respect of the branch or branches in question, when they are resident abroad, the provision of old-age benefits, survivors' benefits and employment injury pensions.

Bolivia (ratification: 1977)

Article 6 of the Convention (Payment of family allowances in respect of children resident abroad). The Committee notes from the information supplied by the Government in its report as also from section 51 of Supreme Decree No. 22-578 of 13 August 1990, that the Bolivian social security scheme no longer provides for the payment of family allowances as contemplated under Article 6 of Convention No. 118 and Article 42 of Convention 102 of which it accepted Part VII (Family benefit) when it ratified the Convention. The Committee therefore expresses the hope that the Government will be able to re-examine the situation with a view to re-establishing a scheme of family benefits which complies with Part VII of Convention No. 102 and that on that occasion full account will be taken of Article 6 of Convention No. 118, which specifies that each Member which like Bolivia has accepted the obligations of the Convention in respect of family benefit shall guarantee the grant of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for that branch, in respect of children who reside on the territory of any such Member, under conditions and within limits to be agreed upon by the Members concerned.

Brazil (ratification: 1969)

Article 5 of the Convention (in relation to Article 10, paragraph 1). With reference to the comments that it has been making for more than 20 years concerning the payment of long-term benefits in the event of residence abroad, the Committee notes the information supplied by the Government in its last two reports. It also notes Acts Nos. 8212 and 8213 of 24 July 1991 respecting social insurance. In this context, it notes that, in the same way as the previous legislation, section 109 of Act No. 8213 provides that in the event of the absence of the beneficiary the payment of benefits shall be made to a substitute whose authority shall be renewed every six months. The Committee also notes that, until the regulations provided for under section 154 of Act No. 8213 are adopted, the Regulations on social insurance benefits provided for by Decree No. 83080 of 24 January 1979 remain in force.

With regard more particularly to section 424 of the Regulations on social insurance benefits, the Government states that the payment of benefits abroad is made on the basis of agreements concluded with the countries of residence of the beneficiaries and that it has not been considered necessary to adopt any instructions as provided for under section 424. The Committee however notes that among the countries which have ratified Convention No. 118, only Cape Verde, Italy and Uruguay have concluded a social security agreement with Brazil. The Committee is therefore bound to point out once again to the Government that in accordance with Article 5 of the Convention the provision of invalidity, old-age and survivors' benefits, death grants and employment injury pensions shall be guaranteed as of right, even in the absence of bilateral agreements, both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for the corresponding branches, and to refugees and stateless persons, in the event of the residence of the beneficiary abroad irrespective of the country of residence. The Committee trusts that the regulations to be issued under Act No. 8213 which, in accordance with section 154, should have been adopted within 60 days following the publication of the Act, will contain a provision guaranteeing the payment of benefits in the event of residence abroad, in accordance with the provisions of Article 5 of the Convention. In the meanwhile, the Committee hopes that the Social Security Office will adopt the necessary instructions to this effect under section 424 of the Regulations on social insurance benefits.

Central African Republic (ratification: 1964)

With reference to its previous comments, the Committee notes the discussions that took place at the Conference Committee in June 1992. The Committee also notes a number of legal texts provided by the Government in response to its request, and particularly Ordinance No. 81/024 establishing a workers' old-age, invalidity and survivors' pension scheme, and its implementing Decree, No. 83/340.

In the information supplied to the Conference Committee in 1992, the Government once again states that the difficulties in applying the Convention stem from the fact that there are problems of application in respect of certain countries which have ratified the Convention where the law is applied only within the territory; it refers, in particular, to the problem of the entitlement of pension rights in relation to certain States when the nationals of the Central African Republic who have worked there return home. That is why the Government, knowing that the Convention contains an obligation of reciprocity, still seeks to conclude agreements with these countries to regularize the situation.

It emerges from its statements that the Government is well aware of the fact that equal treatment in respect of social security and more particularly the payment of long-term benefits in the event of residence abroad must be guaranteed automatically regardless of the country of residence, even in the absence of bilateral or multilateral reciprocity agreements. In this connection, the Committee notes with interest the Government's statement that the constitutional procedure for the adoption of the draft text prepared by the Labour Department to bring national law and practice into conformity with the Convention - to which the Government referred in its previous report - has been initiated and is in progress: Ordinance No. 81/024 of 16 April 1981 referred to above and its implementing Decree, No. 83/340, are shortly going to be amended, as is the Act establishing the Central African Social Security Office, to ensure that the spirit of the Convention is observed.

In these circumstances, the Committee again expresses the hope that the legislative measures announced by the Government will be adopted shortly and that they will give full effect to the Convention on the following points.

Article 4 of the Convention (branch (g): Employment injury benefit). Section 27 of Act No. 65-66 of 24 June 1965 on industrial accident compensation should be supplemented by an express provision that dependants (survivors) of the victim of an occupational injury who was a national of the State bound by the Convention, who were not resident in the Central African Republic at the time of the victim's death and who continue not to be resident therein, may claim survivors' benefit if it is proved that they were actually dependent on the victim at the time of his death.

Article 5 (branch (e): Old-age benefit). The national law should be supplemented by a provision for the payment of old-age benefit in case of residence abroad both to nationals of the Central African Republic and to nationals of any other member State that has accepted the obligations of the Convention for branch (e) (Old-age benefit) (i.e. up to the present date: Barbados, Brazil, Cape Verde, Guinea, Iraq, Israel, Italy, Kenya, Libyan Arab Jamahiriya, Mauritania, Mexico, Netherlands, Rwanda, Syrian Arab Republic, Tunisia, Turkey, Venezuela and Zaire).

The Committee hopes that the Government will not fail to submit a report for examination by the Committee at its next meeting and that it will contain detailed information on progress achieved in this respect. Furthermore, it recalls the suggestion made by the Conference Committee that the Government may wish to seek ILO technical assistance in this area.

[The Government is asked to report in detail for the period ending 30 June 1993.]

France (ratification: 1974)

1. Article 3, paragraph 1, of the Convention, branch (d) (Invalidity benefit). (a) With regard to the supplementary allowance of the National Solidarity Fund (FNS) provided for in section L.815-2 of the Social Security Code, the Government states that the ministerial consultations on the question of extending the provision of this allowance to all foreigners resident in France have not yet been concluded. It adds that the financial impact of such an extension would be immediate and very heavy and would have to be borne entirely by the state budget, which would be difficult in view of the budgetary and economic constraints. The Committee notes this information. It hopes that once the above-mentioned ministerial consultations have been concluded, the Government will be able, in accordance with this provision of the Convention, to take the necessary measures to extend in both law and practice the provision of the FNS supplementary allowance to nationals of all member States that have accepted the obligations of the Convention (and not only to nationals of countries that have signed an international reciprocity agreement as provided in section L.815-5 of the above Code).

(See also under 2 as regards the scope of the reciprocity allowed by Article 4, paragraph 1, of the Convention.)

(b) With regard to the allowance for disabled adults, instituted by Act No. 75-534 of 30 June 1975, the Government indicates that the issues relating to its extension to all foreigners residing in France are very similar to those of extension of the FNS supplementary allowance. In these circumstances, the Committee hopes that the Government's examination of this matter will lead to the Convention being fully applied in this respect by providing the allowance for disabled adults to nationals, who reside in France, of all States that have accepted the obligations of the Convention (subject to the Government's entitlement to avail itself of Article 4, paragraph 2(b), under which it may make the grant of a benefit conditional upon a period of residence of up to five years).

2. Article 4, paragraph 1 (branch (d)) (Invalidity benefit) and branch (f) (Survivors' benefit). In its previous comments, the Committee noted that the legislation imposed the condition of residence in France for the provision of social security benefits (in this case invalidity and survivors' benefits) to foreigners insured under the general scheme (section L.311-7 of the Social Security

Code), the agricultural scheme (section 1027 of the Rural Code) and the mines scheme (section 184 of Decree No. 46-2769 of 27 November 1946). According to the explanation given by the Government in its report, the condition of residence is required only when insured persons apply for liquidation of the pension and, in practice, is considered to have been fulfilled if the foreign national can show that he has resided lawfully in France for more than three months. With regard more particularly to invalidity pensions proper, and invalid widows' or widowers' pensions, the Government states, without indicating however the relevant provisions of the law, that there is no residence requirement for foreign beneficiaries either for payment of the benefit or for liquidation of the pension, once entitlement is established and can be verified. The Committee understands from the Government's statement that condition of residence is still required of foreign beneficiaries but only at the time of entitlement, i.e. when application is made for liquidation of an invalidity benefit or survivors' pension.

Furthermore, the Government repeats its view that the notion of reciprocity which is the foundation of all international Conventions would clearly be meaningless if it meant, for France, the unilateral abolition of the condition of residence required on application for the liquidation of a social security benefit, while other signatories to the Convention continue to apply this condition. The Government considers that this general principle underlies the text of Article 4, paragraph 1, of the Convention which must be applied in its entirety. In this connection, the Committee wishes to point out that the basic principle laid down in Article 4, paragraph 1, is that equality of treatment which must be granted to nationals of all States that have ratified the Convention must be ensured without any condition of residence, on the basis of automatic reciprocity between member States which is established by this instrument. However, this provision does allow an exception from the principle in respect of benefits of a specified branch of social security in the case of nationals of any Member the legislation of which makes the grant of benefits under that branch conditional on residence on its territory. This exception is not a general one and its application must be examined in each individual case and for each branch of social security and in the light of the Member's legislation thereon. The fact that such an exception is possible cannot justify maintaining in French legislation a general rule which makes the grant of benefits to foreign nationals conditional upon residence, even if it is restricted to residence at the time when application is made for liquidation of the pension. In these circumstances, the Committee again expresses the hope that, in all cases where the insured person or the deceased were covered by French social security at the time of the contingency, appropriate measures will be taken to ensure, as regards branches (d) and (f), in both law and practice, that effect is given to this provision of the Convention, under which equality of treatment as regards the grant of benefits shall be accorded, without any condition of residence, to nationals of any State bound by the Convention.

Iraq (ratification: 1978)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous direct request which read as follows:

> Article 5 of the Convention (provision of benefits abroad). The Committee recalls that the national legislation - the Workers' Pension and Social Security Law No. 39 of 1971 and Instruction No. 2 of 1978 regarding the payment of social security pensions to insured persons leaving Iraq - contains numerous restrictions concerning payment of benefits abroad for Iraqi nationals as well as for foreign nationals, which are contrary to this provision of the Convention. Consequently, it hopes that the Government would be able to indicate measures taken or contemplated to remove these restrictions in the light of the more detailed comments contained in the Committee's direct request. The adoption in the near future of measures ensuring, without ambiguity or restrictions, the provision of long-term benefits in case of residence abroad for Iraqi nationals and for nationals of other countries which have accepted the obligations of the Convention in respect of the branch in question as well as for refugees and stateless persons is all the more necessary having regard to the fact that during 1990 and thereafter many workers have left Iraq, as confirmed by the statistics communicated by the Government.

The Committee hopes that the Government will make every effort to take the necessary measures in the very near future.

Israel (ratification: 1965)

With reference to its previous comments, which it has been making for a number of years, the Committee notes that the Government's report only reproduces the text of the previous report (for the period 1983-86) with the addition of certain statistics for the year 1989.

The Committee is therefore bound to insist that the Government's next report contains full and detailed information on the points that it is raising once again in a request addressed directly to the Government.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Mauritania (ratification: 1968)

Article 5 of the Convention (Provision of benefits abroad). With reference to its previous comments, the Committee notes the recommendations of the Committee set up by the Governing Body to examine the representation presented by the National Confederation of Workers of Senegal under article 24 of the ILO Constitution. These recommendations, which were adopted at the 249th Session (February-March 1991) of the Governing Body, invited the Government, in particular, to take the necessary measures to have established and ensure the payment of any benefits due to Mauritanian nationals who left Mauritania following the events of 1989. The Committee also notes the direct contacts mission that took place in May 1992 which concerned Mauritania's application of a number of Conventions, including Convention No. 118.

In its reports received in February and August 1992, the Government states that it is having no difficulty with the practical application of the Convention and that the problem is purely a political one. It adds that the process of normalization between Mauritania and Senegal has already begun: diplomatic relations between the two States were reestablished in April and bilateral technical committees are endeavouring to settle remaining issues. In this connection, the Government states that the National Social Security Fund is paying pensions and family allowances to Senegalese dependents.

The Committee takes due note of this information. It draws the Government's attention to the fact that under Article 5, paragraph 1, of the Convention, the Government is required to guarantee, not only to nationals of a Member which has accepted the obligations of the Convention, but also to its own nationals, when they are resident abroad, provision of invalidity benefits, old-age benefits, survivors' benefits and death grants, and employment injury pensions. It also recalls that the recommendations of the tripartite Committee concerned in particular the situation of nationals who were expelled following the events of 1989.

The Committee therefore hopes that the Government will not fail to indicate in its next report the measures that it has taken: (a) to have established, if appropriate with the assistance of the bodies concerned, the benefits which may be due, under Article 5 of the Convention, to Mauritanian nationals who had to leave Mauritania after the events of April 1989; and (b) to ensure the payment of the benefits in question to these beneficiaries, in accordance with the relevant provisions of the Convention. The Committee also hopes that in its next report the Government will be able to provide, in accordance with point V of the report form on the Convention adopted by the Governing Body, detailed information on the practical application of the Convention, including statistics on the number, nature and amount of the benefits transferred to both Mauritanian and foreign beneficiaries in the event of residence outside the country.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bolivia, Brazil, Cape Verde, Central African Republic, France, Germany, Iraq, Israel, Jordan, Madagascar, Rwanda, Venezuela.

Convention No. 119: Guarding of Machinery, 1963

Algeria (ratification: 1969)

1. Article 2, paragraphs 3 and 4, of the Convention. In its previous observation, the Committee observed that the provision of section 8 of Act No. 88-07 on occupational safety and health and occupational medicine, which prohibits the manufacture, exhibition, putting up for sale, sale, import, hire or transfer in any other manner of machinery or parts of machinery that do not correspond to current national and international health and safety standards does not determine the machinery that is considered to be dangerous, nor the parts thereof which are likely to present danger, in accordance with the requirements of paragraphs 3 and 4 of Article 2 of the Convention.

The Committee notes with interest the adoption of Executive Decree No. 91-05 of 19 January 1991 respecting general safety provisions. In its report, the Government indicates that the provisions of sections 40 to 44 of the above-mentioned Decree give effect to the requirements of paragraphs 3 and 4 of Article 2 of the Convention. The Committee observes in this connection that the objective of Article 2 of the Convention is to guarantee that machines are safe before they reach the user, whereas the above-mentioned provisions concern the guarding of machinery once it is in use.

The Committee refers to paragraphs 73 et seq. of its General Survey on Safety and the Working Environment where it indicates that it is essential for the effective application of Part II of the Convention that national legislation designate those parts of machinery that present danger and require appropriate guarding (paragraph 82) and that, until there has been a determination of the machinery and parts thereof that present danger, the prohibition of the sale, hire, transfer in any other manner and exhibition of machinery contained in Article 2 of the Convention remains ineffective.

It also indicated that the definition of dangerous machinery and parts thereof should as a minimum cover all those parts enumerated in Article 2 of the Convention (paragraph 85).

The Committee asks the Government to indicate the measures taken or under consideration to supplement the provision of section 8 of Act No. 88-07 of 26 January 1988 and to ensure the application of paragraphs 3 and 4 of Article 2 of the Convention.

2. Article 4. The Committee noted that section 8 of Act No. 88-07, prohibiting the manufacture, exhibition, putting up for sale, sale, import, hire or transfer in any other manner of machinery that is dangerous, with a view to its use, does not explicitly lay down the responsibility of all those who are involved in the manufacture and delivery of machinery: the manufacturer, the vendor, the person letting out on hire or transferring the machinery in any other manner, or the exhibitor, and their respective agents.

The Committee notes that in its report the Government indicates that section 8 mentioned above applies to all those who are involved in the manufacture, sale, hiring or exhibition of machinery.

The Committee refers to the explanations contained in paragraphs 164 to 175 of its General Survey of 1987 on Safety and the Working

Environment, in which it observes that the general prohibition from manufacturing, selling, hiring or transferring in any other manner machinery which is dangerous is inadequate if it is not accompanied by a provision explicitly requiring these provisions to be applied to the manufacturer, the vendor, the person letting out on hire or transferring the machinery in any other manner or their respective agents, in order to comply with Article 4 of the Convention which expressly establishes the responsibility of these persons, and to avoid any ambiguity.

The Committee asks the Government to provide information on the measures taken or under consideration to ensure that the responsibility of the categories of persons mentioned in Article 4 of the Convention is explicitly established in the national legislation and that sanctions are provided for in the case of violation.

3. Articles 6 and 7. The Committee draws the Government's attention to the fact that section 8 of Act No. 88-07 does not explicitly prohibit the use of machinery any dangerous part of which, including the point of operation, is without appropriate guards.

The Committee notes the indications in the Government's report that sections 40-43 of Executive Decree No. 91-05 give effect to Article 6 of the Convention. The Committee observes that the provisions referred to by the Government require the dangerous parts of machines to be guarded but does not expressly prohibit the use of machines the dangerous parts of which are not guarded.

The Committee recalls that, as indicated in paragraph 180 of the General Survey of 1987 on Safety and the Working Environment, Article 6, paragraph 1, of the Convention is formulated as a general prohibition to be included in the national legislation and that, in order to observe this provision, it is not enough to require the guarding of machines which are used without at the same time requiring that the use of machines without appropriate guards is forbidden.

Furthermore, it must be quite clear from the legislation that the obligation to ensure compliance with this prohibition rests on the employer, in accordance with Article 7 of the Convention.

The Committee asks the Government to provide information on the measures taken or envisaged to give effect to the Convention on these points.

Central African Republic (ratification: 1964)

Article 2, paragraphs 3 and 4, of the Convention. In the comments that it has been making for over 15 years, the Committee referred to section 37(3) of General Order No. 3758 which provides that dangerous machines or parts of machines of which the sale, exhibition or hire is prohibited under section 37(1) shall be specified by Order.

The Committee noted, according to the information supplied by the Government, that the draft Decree provided for under section 37 above was before the competent authorities and had not yet been adopted. The Government also stated that the above draft text would also give effect to Articles 10, paragraph 1, and 11 of the Convention, concerning the measures that must be taken by the employer to bring national laws or regulations relating to the guarding of machinery to the notice of workers and to instruct them regarding the dangers arising from their use. Article 11 provides that no workers shall use any machinery without the guards provided being in position nor make inoperative these guards, while guaranteeing that, irrespective of the circumstances, no worker shall be required to use any machinery without the guards provided being in position or if they have been made inoperative.

The Committee notes the statement by the Government representative to the Conference Committee in 1991 to the effect that only three years have passed since the establishment (with the assistance of the ILO) of the Directorate of Workers' Health in Central Africa, which is headed by the only occupational health medical inspector in the country, but that nevertheless texts had been drafted, updated and submitted to the competent authorities for adoption.

The Committee notes the concern expressed by the Workers' and Employers' members of the Conference Committee concerning the "extreme delay in remedying the problem" and the importance of the application of this Convention "because it involves the safety, health and sometimes the very lives of workers".

The Committee notes that the Government's report has not been received. It requests the Government to take the necessary measures to give effect to the Convention on the points which have been raised and to supply information on any progress achieved in this respect.

Ghana (ratification: 1963)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Articles 1 and 17 of the Convention. In its previous comments, the Committee noted that measures had not yet been adopted to give effect to the Convention in agriculture, forestry, road and rail transport and shipping.
>
> The Commission noted that the Government was going to hold consultations with the ministries and sectors concerned in order to obtain their views, after which the Tripartite National Advisory Committee on Labour would consider the matter.
>
> The Committee noted that the Government's latest report does not contain any information on this question. Since it has been the subject of comments for several years and assurances have been given by the Government on several occasions, the Committee hopes that the necessary action will at last be taken to ensure the guarding of machinery in the sectors concerned and that the Government will soon supply specific information on the progress made to that end.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Jordan (ratification: 1964)

Part II, Articles 2 and 4 of the Convention. With reference to its previous comments, the Committee again draws the Government's attention to the absence of provisions in national law to prohibit formally the sale, hire, transfer in any other manner and exhibition of machinery the dangerous parts of which are without appropriate guards, as required by the above-mentioned provisions of the Convention.

In its report, the Government states that the Committee's comments will be submitted to the Ministerial Committee responsible for examining the draft Labour Code, and that the Minister of Labour, who is represented on the above Committee, will endeavour to introduce the provisions required by the Convention into the draft of the new Labour Code to ensure that effect is given to the provisions of this Convention.

The Committee can but express the hope that the Government will do everything in its power, without further delay, to ensure that the national legislation is brought into conformity with the provisions of the Convention.

Madagascar (ratification: 1964)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Articles 2 and 4 of the Convention. In the comments it has been making for a number of years, the Committee observed that Order No. 889 of 20 May 1960 contains, in sections 44 to 58, detailed provisions on the guarding of machinery, but that these provisions are applicable only to the use of the machinery and therefore have a more restricted scope than the provisions of the Convention. This instrument prohibits the sale, hire, transfer in any other manner and exhibition of machinery of which the dangerous parts specified in paragraphs 3 and 4 of the same Article are without appropriate guards. The Committee requested the Government to take the necessary measures to give full effect to the Convention on this point.
>
> In its last report, the Government stated that sections 55 to 58 of Order No. 889 lie within the terms of the Convention since they prohibit the employer from using machinery on which the dangerous parts are not protected and which have not been formally approved. The Government added that, by extension, the prohibition of the sale, hire or transfer of this machinery may be deduced; however, a draft Order to amend or supplement Order No. 889 of 20 May 1960 was under examination by the Directorate of Labour and the new text will take into account the provisions of the Convention.
>
> The Committee refers to paragraphs 55 to 63 of its 1987 General Survey on Safety in the Working Environment, in which it emphasized that "a mere prohibition of the use of inadequately guarded machinery cannot ... be considered as obviating the need

to apply the requirements of Part II of the Convention concerning its sale, hire and transfer" (paragraph 62), and that "the prohibitions laid down in the Convention apply not only to the initial sale but also to subsequent sales by agents and to the hire, transfer and exhibition of unguarded machines, whether new or reconditioned" (paragraph 70).

The Committee once again urges the Government to take the necessary measures to give full effect to the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Nicaragua (ratification: 1981)

In the comments that it has been making since 1984 the Committee has noted that the provisions of the Labour Code contain measures of a general order which do not give effect to most of the provisions of the Convention. Over the same period, the Government has referred to implementing regulations which are to be adopted to guarantee the application of the Convention, but which have not yet been adopted.

In its last report the Government states, on the one hand, that implementing regulations which give effect to the provisions of the Convention have never existed and that it has no knowledge of draft legislation being prepared for that purpose. On the other hand, the Government states that it has received technical advice from the Ibero-American Cooperation Institute which has in part been related to the preparation of draft ministerial decisions and agreements to regulate those aspects of safety and health questions which have not yet been regulated.

The Committee notes that, 12 years after its ratification, the national legislation does not yet contain provisions which give effect to most of the provisions of the Convention and that, once again, the Government refers in a general manner to "preliminary draft texts which have taken into account the Committee's comments".

The Committee requests the Government to take the necessary measures to give effect to the Convention and requests the Government to supply information on the progress achieved in this respect.

Turkey (ratification: 1967)

1. Article 17 of the Convention. In its previous comments, the Committee requested the Government to take the necessary measures to extend the application of the provisions which give effect to the Convention to the agricultural, air and sea transport sectors, which are excluded from the scope of the Labour Act (section 5(1) and (2)) and the 1983 Regulations on the Guarding of Machinery, which is only applicable to the commercial and industrial sectors (section 2).

The Government indicated in its previous reports that this exclusion had not prevented the adoption of other measures to give effect to the Convention in these sectors.

The Committee notes that, in its last report, the Government states that by virtue of section 5(a), (b), (c) and (d) of the Labour

Act, the following activities fall within the scope of that Act: the work of loading and unloading ships in ports and docks (a); all the ground operations of air transport (b); work done in agricultural industries and in factories and shops which manufacture agricultural tools, machinery and spare parts (c); and construction work carried out at agricultural undertakings (d).

The Committee notes, on the one hand, that these activities do not cover all the activities of the agricultural, air and sea transport sectors and that, on the other hand, the provisions which give effect to the Convention are mainly contained in the Regulations of 1983 which are applicable only to the commercial and industrial sectors. The Committee requests the Government to take the necessary measures to extend the scope of the Regulations of 1983 to all sectors of the economy, in accordance with Article 17 of the Convention, and to supply information on the progress achieved in this respect.

Maritime work. The Committee notes that section 49 of the Maritime Labour Act, No. 854, which was referred to by the Government in its report, adds nothing substantial to the application of the Convention in the maritime transport sector. This provision only contains a reference to the Labour Act which, as noted above, does not cover this sector of the economy.

2. Article 15. The Committee requested the Government to supply information on any measure that had been taken to ensure the effective application of the 1983 Regulations on the Guarding of Machinery. In particular, the Committee requested information on the effect given in practice to section 16 of the Regulations, particularly by supplying copies of inspection reports containing the number of violations reported and the sanctions imposed.

The Committee notes, from the information supplied by the Government in its report, that the inspection reports do not contain statistics concerning the guarding of machinery. The Committee also notes the information supplied by the Government in its report concerning the difficulties encountered in compiling statistics on inspection visits and their results, as well as in the coordination and cooperation between the various bodies responsible for the application of certain provisions of the Convention. The Committee hopes that the Government will be able to find a solution to overcome these difficulties.

The Committee requests the Government to supply information on the measures which have been taken or are envisaged to ensure adequate inspection with regard to the application of the 1983 Regulations on the Guarding of Machinery.

3. The Committee notes the comments made by the Turkish Confederation of Employer Associations and the Confederation of Turkish Trade Unions, which were supplied with the Government's report.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Ecuador, Finland, Guinea, Iraq, Italy, Kuwait, Niger, Paraguay, Russian Federation.

Information supplied by Panama in answer to a direct request has been noted by the Committee.

Convention No. 120: Hygiene (Commerce and Offices), 1964

Finland (ratification: 1968)

The Committee notes the comments raised by the Central Organization of Finnish Trade Unions (SAK) which were contained in the Government's report and refers in this regard to its comments addressed directly to the Government under the Occupational Health Services Convention, 1985 (No. 161).

Guinea (ratification: 1966)

1. The Committee notes the indication provided in the Government's latest report that the Committee's previous comments would be taken into account when the texts regulating occupational safety and health are drafted. The Committee hopes that the texts necessary to ensure the full application of the Convention will be drafted in the near future in consultation with the representative organizations of workers and employers concerned, in accordance with Article 5 of the Convention.

The Committee notes that section 171 of the Labour Code provides that ministerial orders shall determine general measures regulating ventilation, lighting, drinking-water and noise and vibrations in all establishments covered by the Code. The Committee hopes that these orders will be drafted in the near future and that they will ensure the full application of Article 8 (provision of sufficient and suitable ventilation), Article 9 (sufficient and suitable lighting; including, as far as possible, natural lighting), Article 12 (sufficient supply of wholesome drinking-water available to all workers) and Article 18 (measures to ensure that noise and vibrations at the workplace are reduced as far as possible).

Furthermore, the Committee notes that no provision exists to ensure that sufficient and suitable seats are supplied to workers, nor to ensure a reasonable opportunity of using the seats, in accordance with Article 14. The Government is requested to indicate the measures taken or envisaged to ensure the application of this Article.

2. Article 1 of the Convention. The Committee notes the Government's indication in its report that its previous comments concerning the public service would be taken into account when occupational safety and health regulations are drafted. The Committee would recall that all workers who are mainly engaged in office work, including workers in the public service, are covered by the Convention. The Committee, therefore, hopes that the Government will take all necessary measures in the near future to ensure the full application of the Convention to the public service and requests the Government to indicate, in its next report, the progress made in this regard.

[The Government is asked to report in detail for the period ending 30 June 1994.]

Jordan (ratification: 1965)

I. The Committee notes the information communicated in the Government's report and the comments communicated by the Amman Chamber of Industry. In comments it has been making for many years, the Committee has referred to the absence of provisions in national law to give effect to Article 10 (maintenance of a comfortable and steady temperature at the workplace), Article 11 (work stations arranged so that there is no harmful effect on the health of the worker), Article 14 (sufficient and suitable seats for all workers), Article 15 (suitable facilities for workers to change, leave and dry clothing that is not worn at work), Article 16 (underground or windowless premises in conformity with appropriate standards of hygiene), Article 17 (the protection of workers against substances, processes and techniques which are obnoxious, unhealthy or toxic, including, where necessary, the provision of personal protective equipment) and Article 18 of the Convention (reduction of noise and vibration at the workplace). Since 1976, the Government has referred to the draft Labour Code which is to give effect to the above provisions of the Convention. In its report of February 1991, the Government has indicated that efforts were being made in the Legislative Council to promulgate the draft Code and to submit it to the Council of the Nation.

II. Article 1 of the Convention. 1. The Committee notes from the Government's latest report that the draft Labour Code provides for measures to be taken to ensure the application, in industrial establishments, of Articles 10 and 16 of the Convention. The Committee would recall that, by virtue of Article 1, the provisions of the Convention shall be applied to establishments, institutions and administrative services in which the workers are mainly engaged in office work. The Government is requested to indicate the measures taken or envisaged to ensure the application of Article 10 (comfortable and steady temperature at the workplace) and Article 16 (appropriate standards of hygiene for underground or windowless premises) in establishments where the workers are mainly engaged in office work.

2. The Committee notes from the latest version of the draft Labour Code made available to the Office that civil servants, public administration and municipalities are excluded from the provisions of the Code and shall be covered by special rules. The Government is requested to indicate, in its next report, the measures taken or envisaged to ensure the application of the Convention to all workers in establishments, institutions and administrative services who are mainly engaged in office work, including civil servants.

III. The Committee notes the Government's indication in its latest report that ministerial decrees based upon the advice given by the competent official commissions shall ensure that practical and adequate measures be taken to reduce air pollution, noise and vibration (Articles 17 and 18), that comfortable chairs for male and female workers are provided (Article 14) and that protective equipment is used by workers. The Government is requested to indicate the measures taken to adopt the ministerial decrees referred to and to supply a copy of any relevant texts adopted in this regard.

The Committee trusts that the Labour Code and implementing ministerial orders and any other legislation necessary to ensure the application of the above-mentioned Articles to the establishments covered by the Convention will be adopted in the very near future and that the Government will also, in accordance with Article 4(b), give such effect as may be possible and desirable under national conditions to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120).

[The Government is requested to report in detail for the period ending 30 June 1994.]

Madagascar (ratification: 1964)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation concerning the following matters:

> For many years, the Committee had been calling the Government's attention to the fact that there were no specific laws or regulations to ensure the full application of Articles 14 and 18 of the Convention, which provide that seats shall be supplied to all workers without distinction of sex and that noise and vibrations likely to have harmful effects on workers shall be reduced as far as possible. Since 1975, the Government has stated in its reports that the Order provided for by the Labour Code of 1975 would give full effect to the above-mentioned provisions of the Convention. The Committee had noted from the Government's last report for the period ending October 1981 that no progress appeared to have been made in the adoption of this Order. The Committee trusts that this Order will be adopted in the near future and that it will give full effect to the provisions of the Convention.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Paraguay (ratification: 1967)

The Committee notes with interest the indication in the Government's report that the Regulations concerning safety and health and occupational medicine have been adopted and will be sent to the Office as soon as they have been printed. It further notes the Government's indication that these Regulations cover enterprises operated by the State, municipalities and other autonomous or self-governing bodies. The Committee hopes that the new legislation will ensure the application of the following Articles of the Convention which have been the subject of its comments since 1973: Article 10 (maintenance of a comfortable and steady temperature), Article 18 (reduction of noise and vibrations) and Article 4(b) of the Convention (to give such effect as may be possible and desirable under national conditions to the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)). The Government is requested to send a copy of the Regulations concerning safety and health and occupational medicine to the Office as soon as a printed copy is available.

Senegal (ratification: 1968)

The Committee takes note of the information supplied in the Government's last two reports concerning the Bill on general health and safety provisions. It notes in particular that the Bill contains provisions to ensure the application of Articles 14 and 18 of the Convention concerning the provision of seats for workers and measures to reduce noise and vibrations in the workplace, on which the Committee has been commenting since 1976.

It notes that section 23 of the Bill provides that a sufficient number of seats shall be made available close to workstations for general use by the workers when the work cannot be performed sitting and that the use of seats must be authorized to the greatest extent compatible with the performance of the work. Procedures for the enforcement of this rule are to be laid down in internal regulations. The Government is asked to indicate the measures taken or contemplated to ensure that workers covered by the Convention will be given the opportunity to use seats in the workplace, in accordance with Article 14 of the Convention.

The Committee notes from the Government's report that the Bill has been submitted for signature by the President of the Republic. It hopes that it will be adopted in the near future and will ensure that effect is given to Articles 14 and 18 and that such effect as may be possible and desirable under national conditions is given to the provisions of the Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120), in accordance with Article 4(b) of the Convention. The Government is asked to provide information on progress made in this respect in its next report and to provide a copy of the Bill as soon as it is adopted.

Switzerland (ratification: 1966)

In its earlier comments, the Committee noted that the only legislative provision relating to hygiene in commerce and offices was section 6 of the Federal Labour Act, which is not sufficient to ensure observance of the detailed requirements of the Convention. Since 1979, the Government has been referring to a revision of Ordinance No. 3 respecting hygiene and the prevention of accidents in industrial undertakings so as to render it applicable to non-industrial undertakings. The Committee notes the Government's statement in its latest report that the new Ordinance No. 3 should come into force on 1 January 1993 and apply to all undertakings and all workers. The Committee hopes that the measures which have been taken give full effect to the Convention and requests the Government to supply the text of any new provisions on this subject as soon as they are adopted.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Bolivia, Bulgaria, Djibouti, Ghana, Iraq, Lebanon, Spain.

Information supplied by Portugal in answer to a direct request has been noted by the Committee.

Convention No. 121: Employment Injury Benefits, 1964
[Schedule I amended in 1980]

Ecuador (ratification: 1978)

The Committee notes with satisfaction that on 10 December 1990 the new General Regulations on Employment Injury Insurance were adopted which, among other reforms, include an updated list of occupational diseases. The Committee notes that the new list of occupational diseases contained in sections 4-6 of the General Regulations on Employment Injury Insurance introduces, in accordance with Article 8 of the Convention, a series of pathologies and the substances and work involving exposure to the risk, in line with its previous comments. The Committee nevertheless draws the Government's attention to the fact that a direct request concerns a number of points which were not taken into account in the new list of occupational diseases.

Senegal (ratification: 1962)

1. Article 8 of the Convention. The Committee notes the adoption of an Interministerial Order issuing the schedule of occupational diseases, No. 006048 of 24 July 1991. It notes with satisfaction that the new schedule of occupational diseases established by the Interministerial Order is now in conformity with the list contained in Schedule I which is annexed to the Convention.

2. With regard to the revision of long-term benefits (Article 21 of the Convention), the Committee refers to its direct request of 1991.

Uruguay (ratification: 1973)

The Committee notes with satisfaction the adoption of Act No. 16074 of 10 October 1989 respecting employment injury insurance, which enables effect to be given to certain provisions of the Convention. The Act (section 25(III)) provides for increments in periodical payments for disabled persons requiring the constant help of another person, in conformity with Article 16 of the Convention. Section 33 of the same Act cancels the suspension of the entitlement to periodical payments for industrial accidents in the event of temporary absence from the territory, in accordance with Article 2, paragraph 1(a). In addition, with regard to Article 22, paragraph 1(g), all references to "improper conduct" of the surviving spouse which gave rise to the cancellation of the right to a periodical payment have been omitted from the Act.

The Committee would be grateful if the Government would provide full information on the questions raised in a direct request.

* * *

In addition, a request regarding certain points is being addressed directly to the following States: Ecuador, Uruguay.

Convention No. 122: Employment Policy, 1964

Algeria (ratification: 1969)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes the Government's report for the period ending 30 June 1990 and the information supplied in reply to its previous comments.
>
> 2. In its observation of 1990, the Committee referred to various constraints (the economic crisis, the level of investments and demographic pressure) which were creating an imbalance on the labour market and requested information on the achievement of employment objectives in the five-year period 1985-89. The Government's report describes an achievement rate of 40 per cent for the objective of creating jobs (of which one half were in the administrative sector) during the above period. In 1989, the labour force survey indicated that the unemployment rate for the active population was around 20 per cent, and this rate could now be around 25 per cent. The category most affected by this situation is young persons seeking their first job.
>
> 3. The Committee notes with interest the priority given by the plan to the human resources development and the information supplied on the Government's action programme, particularly as regards policies in the fields of investment, the labour market, education, training and special youth programmes. A request for further information is being addressed directly to the Government on the implementation of the employment policy measures that have been taken or are envisaged.
>
> 4. The Committee hopes that the Government will continue to give all due attention to declaring and pursuing, "as a major goal", an "active policy" designed to promote employment, in the sense of the Convention, which takes due account of the mutual relationships between employment objectives and other economic

and social objectives. In this connection, as suggested in Recommendation No. 122, the attainment of the social objectives of employment policy should be coordinated in particular with measures affecting investment, production and economic growth, the growth and distribution of incomes, social security, fiscal and monetary policies and the free movement of goods, capital and labour (Annex to Recommendation No. 122, Paragraph 2).

Bolivia (ratification: 1966)

1. With reference to its previous observation, the Committee took note of the information provided at the 79th Session of the Conference (June 1992) and the discussion at the Conference Committee. It also notes a communication dated 4 August 1992 from the Trade Union Federation of Bolivian Mineworkers (FSTMB) referring to massive layoffs by the Bolivian Mining Company (COMIBOL). The above union considers that the Government, by closing workplaces under pretext of restructuring public enterprises and in order to satisfy the demands of the World Bank and the IMF, is exacerbating unemployment. In its reply to these allegations, dated 2 March 1993, the Government indicates that COMIBOL is on the verge of bankruptcy and that, owing to the lack of financial resources and technology, it is impossible to maintain an enterprise which is running at a loss. It states that it is none the less seeking to preserve jobs, in particular by setting up joint venture enterprises under the 1990 Investment Act. The Government also states that only 321 workers had to leave the enterprise between January and September 1992.

2. The Committee notes that the Government representative informed the Conference Committee that a census had been conducted which would make it possible for the report to give the statistical data requested concerning the volume and distribution of labour, and the nature, extent and trends of unemployment and underemployment. The Committee also notes that the Workers' members stressed the need to formulate and apply an active employment policy, in consultation with the social partners, particularly at a time of recession and structural readjustment. The Workers' members concluded that, although investment growth is fundamental for the level of employment, investment must always be accompanied by the social dimension which only the Government can promote. The Employers' members considered that, in evaluating employment policy, factors such as monetary stabilization measures should be taken into account. They stressed the benefits of medium- and long-term measures, such as investment in vocational training.

3. The Committee notes with regret that the report due in 1992 has not been received. It hopes that a report will be supplied by the Government for examination by the Committee at its next meeting. It trusts that the report will contain, in addition to the statistics which the Government has undertaken to supply, full information in reply to its previous observation. The Committee asks the Government, in particular, to indicate the manner in which an active policy is pursued to promote full, productive and freely chosen employment (Article 1, paragraph 1, of the Convention), to supply the texts

defining it, and to describe the procedures adopted to ensure that at both the planning and the implementation stage, the effects on employment of the measures adopted to promote economic development are taken into consideration (Article 2). The Committee also asks the Government to provide information on how it is endeavouring to consult representatives of all the persons affected by employment policy, including representatives of the rural and informal sectors, in order to take full account of their experience and views (Article 3). Lastly, the Committee would be grateful if the Government would continue to provide information on the results obtained by the National Institute of Vocational Education and Training (INFOCAL) in improving coordination of vocational education and training policies with employment prospects, stating in particular the measures taken as a result of technical assistance or advice received in the context of ILO technical cooperation projects (Part V of the report form).

Brazil (ratification: 1969)

1. The Committee took note of the Government's report. With reference to its previous observation, it notes that, following the failure of the stabilization programme adopted in March 1990, the Government's main priorities are still curbing inflation, public sector adjustment and opening up to the international market, in a context of constraint caused by the external debt. The Government stresses the inequitable consequences of inflation and considers that policies to end it, despite the short-term sacrifices they require, are essential for the establishment of monetary stability and expansion in the longer term of production and employment. It admits, however, that the restrictive monetary policy and reduction in public expenditure since 1991 have given rise to a labour market situation in the period under consideration which is very far removed from the objective of full employment.

2. The Committee notes that the employment and unemployment data provided by the Government are not complete, that they differ considerably depending upon the institution which compiles them and do not make a clear distinction between employment in the informal sector, underemployment and unemployment. Moreover, unemployment statistics are only drawn up for the large urban areas. There are no data on rural employment. There are few or no indications concerning the employment of specific and underprivileged groups of the population. The Committee is bound to point out in this connection the need for sufficiently accurate and reliable statistical data on the situation and trends in employment, underemployment and unemployment in both the modern sector and the informal sector (where 50 per cent of the active population appears to be employed), in order to design and implement appropriate employment policy measures. It asks the Government in its next report to indicate the measures taken or under consideration to ensure that decisions on employment policy are based on adequate knowledge of the nature and extent of unemployment and underemployment and their trends. International recommendations on labour statistics could usefully be taken into account in this context.

3. The Committee also notes that, in addition to its placement and vocational guidance activities, the National Employment System (SINE) is responsible for planning, coordinating and monitoring the employment programmes of the different States. The Committee would appreciate information on the objectives and implementation of these employment programmes in the next report, so that it can better ascertain the functioning of the system.

4. The Government indicates that employers and workers are represented on an equal footing in the Tripartite Deliberating Council of the Workers' Protection Fund. The elaboration of employment policy does not, however, appear to be within the scope of the authority of the above body. Furthermore, the Committee recalls that Article 3 of the Convention requires not only representatives of employers' and workers' organizations to be consulted on employment policy, but also representatives of other "persons affected" by the measures to be taken, "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies". In view of the fact that they account for a large proportion of the active population, it would be appropriate for workers in the rural sector and the informal sector, amongst others, to be involved in the consultations on employment policy.

5. The Committee is aware of the constraints on the Government's choice of economic policy. However, it is bound to express concern at the Government's indication that, in accordance with the priorities established, it is determined to pursue a stabilization policy which it realizes is an obstacle in the short term to the objective of full employment. Moreover, the Government provides no information on employment policy measures which it might implement concurrently with its economic policy so as to attenuate the latter's effects on the least privileged categories of the population. The Committee hopes that the Government will consider the possibility of reviewing, in accordance with Article 2, within the framework of a coordinated economic and social policy, the measures to be adopted for attaining the objectives set out in Article 1. It trusts that the next report will contain new information demonstrating that the Government pursues "as a major goal" an active policy designed to promote employment, in accordance with the Convention.

Canada (ratification: 1966)

1. With reference to its previous observation, the Committee took note of the Government's report and the explanations provided by the Government to the 79th Session of the Conference (June 1992), as well as the discussion in the Conference Committee.

2. The Committee notes the statement to the Conference Committee by the Government representative, which is reproduced and presented in the report as a reply to its previous observation. She reaffirmed the belief of her Government that the creation of an economic climate conducive to growth was a precondition to the achievement of increased employment opportunities in the long term. Recalling the labour market policy programmes implemented within the context of the Canadian Jobs Strategy, she emphasized that the

amendment of the Unemployment Insurance Act had made it possible to free new resources for active vocational training measures. She informed the Conference Committee of the establishment in January 1991 of the Canadian Labour Force Development Board, which is of tripartite structure and works through the subregional labour market boards. The Government representative also stated that the Federal Government was negotiating with the provinces improvements in the various programmes and a concerted effort continued to be made to promote the employment of disadvantaged groups of the population. The Employers' members noted the positive aspects of government policy to invest in human resources, the efforts made to help those who were having difficulty getting into the labour market, and the implementation of employment programmes on a regional basis, while recommending that the Government take measures without delay to lower the level of unemployment. The Employers' member of Canada supported the new initiatives taken by his Government and considered that the employment programmes in Canada, by their scope and quality, ranked among the most developed of all the industrialized countries. For their part, the Workers' members regretted to note that the Government continued to give priority in its economic policy to reducing the budget deficit and controlling inflation, to the detriment of employment policy objectives. The Workers' member of Canada emphasized the aggravation of the tendency towards more precarious jobs and estimated that a precise evaluation of underemployment and unemployment should take into account unemployed persons who had been discouraged from seeking a job, workers employed involuntarily in part-time work or under short-term contracts. He concluded by stating that the Government's policy was not in accordance with the spirit and letter of the Convention, and affirmed that an economy with full employment was the basic requirement for ensuring income security and was a determining factor in promoting equality of opportunity and conditions.

3. The Committee notes, according to the new information supplied by the Government in its report and the data contained in OECD studies (to which the Government refers), that the recession experienced by the country in 1991 resulted in a new increase in unemployment, which a trend of low growth since then has not made it possible to remedy. The unemployment rate was over 11 per cent of the active population at the end of the period covered by the report and, according to the OECD, it only stabilized at this level due to a decrease in the activity rate of more than three points in comparison with 1990. Furthermore, data for 1991 show differing trends for full-time employment (which decreased by 3 per cent in relation to 1990) and part-time work (which increased by nearly 5 per cent). The incidence of part-time work has increased proportionally among women, who accounted for 70 per cent of all part-time workers in 1991.

4. The Government supplies in its report new information on the implementation of structural reforms, particularly in the fields of taxation, trade policy, deregulation, privatization and the reform of unemployment insurance. This latter lies in the context of a labour market policy which is intended to reduce the dissuasive nature of a system of protection which is considered to be too generous, in order to place emphasis on active measures. The Committee notes the results achieved in terms of combating inflation, lowering interest rates and

decreasing the budget deficit. It notes that, according to the criteria cited by the Government, the requirements for a growth in employment therefore appear to have been achieved, although the OECD does not believe that there will be any particular decrease in unemployment in 1992-93 despite the forecast recovery of activity. With regard to labour market policy measures in the context of the Canadian Jobs Strategy, the Committee once again requests the Government to supply any available evaluation of the impact of the various programmes on the employment of the categories of persons concerned. It would also be grateful if the Government would supply any relevant documents concerning the activities of the new Canadian Labour Force Development Board and, more generally, to supply, as in the past, information on consultations held with the representatives of the persons affected, in accordance with Article 3 of the Convention. It hopes, in the same way as the Conference Committee, that future reports will supply information on the progress achieved in attaining the employment objectives set out in the Convention.

Costa Rica (ratification: 1966)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee takes note of a general report - received in November 1990 - in which the Government states that there have been no significant changes in national legislation and practice as regards the application of the provisions of Convention No. 122, among others, and refers the Committee to previous reports. The Committee notes that the general report does not take into account the comments it made in 1989.
>
> In its observation of 1989, the Committee expressed the hope, in particular, that the Government would continue to provide detailed information on the impact on employment of the measures taken to meet its monetary and financial commitments. The Committee considered that in order to be in a position to examine in detail the way in which effect has been given to the provisions of the Convention it would be necessary for the Government to provide full and detailed information on the matters set out in the report form for the Convention approved by the Governing Body, with particular reference to the difficulties that have arisen in achieving the objectives of the national programme for the generation of employment (as set out in Decrees Nos. 17269-TSS, of 1986, and 17436-TSS, of 1987) and to the consultations with representatives of the persons affected, including those who work in the rural and informal sectors (Article 3 of the Convention).
>
> Since the report on the application of the Convention has not been received, the Committee hopes that the Government will submit a complete and detailed report, as requested in the previous comments, so that it may be examined at the Committee's next meeting in March 1993.

Part V of the report form. In its communication of February 1988, the Government referred to the cooperation and technical assistance proposed by the ILO under a technical cooperation agreement for the national employment and social development programme, executed by PREALC with UNDP resources. The Committee trusts that the Government's next report will also contain detailed information on the action undertaken as a result of the advice received from the ILO in connection with the Convention.

Cuba (ratification: 1971)

1. With reference to its previous comments, in which it noted the comments made by the International Confederation of Free Trade Unions (ICFTU), the Committee notes the Government's report and the discussion in the Conference Committee in June 1992. The Government representatives emphasized that at no time, despite the economic difficulties, had they abandoned the policy of full employment, based on the equality of all workers, without any type of discrimination. The Workers' members stated that there had to be freedom to choose jobs, and also to have opportunities of training and general education to prepare for jobs, without discrimination on grounds of political convictions. The Employers' members subscribed to the statement made by the Workers' members and emphasized that employment policies in Cuba could lead to the belief that it involved forced labour.

2. In its report, the Government indicates that the State guarantees access to employment and education, without discrimination, and attempts to combine individual and social interests. As a consequence of the need to reorganize the Cuban economy and trade, growth of employment has been planned in those activities which can most contribute to the economic recovery of the country. The Food Programme has the objective of achieving self-sufficiency in supplying the population, by increasing the labour force in the rural sector. The Turquino Plan is intended to decrease migration from the mountains to urban areas through a high rate of development of infrastructure, thereby providing new sources of employment and better living conditions. In the tourism sector, in which there are many opportunities for employment, it is planned to make considerable investments and a substantial effort will be required in the field of training and retraining. The fields of biotechnology and the pharmaceutical industry also provide opportunities for the creation of new jobs. The report also refers to the possibility of creating new jobs through foreign investment. By March 1992, it had been possible to relocate 85 per cent of redundant workers, while a slower rise in the active population will decrease pressure on the labour market.

3. The Committee once again notes that the context for the application of the Convention is still difficult and emphasizes that, in accordance with Article 1, paragraph 1, of the Convention, it is important to maintain as a major goal an active policy designed to promote full, productive and freely chosen employment, with the objective of stimulating economic growth and development, raising levels of living and meeting manpower requirements. As it indicated in its observation in 1992, employment policy must also promote the

free choice of employment by enabling each worker to train for employment which can subsequently be freely chosen, as set out in Article 1, paragraph 2(c), of the Convention. Taking into account its comments on the application of Conventions Nos. 29, 105 and 111, the Committee requests the Government to supply information, in its next detailed report on the application of Convention No. 122, on the measures which have been taken or are envisaged to give better effect to the above provisions, and to include information on the impact on employment of the Food Programme, the Turquino Plan, and of national and foreign investment. Please also state whether the principal measures of employment policy are kept under review within the framework of a coordinated economic and social policy, in accordance with Article 2.

Denmark (ratification: 1970)

The Committee notes the allegations made by the Danish Confederation of Professional Associations (AC) in the context of a complaint on violation of freedom of association (Case No. 1641).

This case concerns alleged interference with the contents of conditions of work contained in collective agreements through the enactment of legislation amending the Consolidated Act on Job Offers for Unemployed Persons. In several communications under this complaint, most recently on 24 February 1993, the workers' organization has referred to Convention No. 122, and in particular to its Article 1, paragraph 3, according to which the employment policy shall take due account of the mutual relationships between employment objectives and other economic and social objectives; it stresses that the promotion of employment by a programme of assistance to the unemployed may not be interpreted as allowing other ILO Conventions to be undercut.

The Committee notes that the Government's report this year on the application of the Convention deals extensively with programmes provided for under the Act mentioned in the complaint. As the Government has not yet had time to respond to the latest communication from this workers' organization, the Committee proposes to defer the examination of specific questions until it examines the Government's report at its next session.

Ecuador (ratification: 1972)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. In its previous reports, the Government states that it has undertaken intense activities to promote employment within the framework of a coordinated social policy. The Committee notes that the Government's report does not contain detailed information on employment policy measures as requested in the report form for Articles 1 and 2 of the Convention, nor data on the situation, level and trends of employment, unemployment and

underemployment. According to the information supplied by PREALC, economic policy has been mainly directed towards the implementation of an adjustment programme to control the public sector deficit and inflation, and progress has been achieved in both respects (inflation, which was around 100 per cent at the beginning of 1989, fell to around 50 per cent at the end of that year). The urban unemployment rate and the level of underemployment rose. Those most affected by unemployment are young persons, for whom the unemployment rate is nearly 20 per cent. The principle instruments of employment policy have been the emergency employment programme and activities to support micro-enterprises.

The Committee refers to the comments that it has been making for a number of years and points out that the preparation of a full report on the application of the Convention may require consultations with the other ministries or government agencies concerned with the implementation of the employment policy. In order to be in a position to be able to examine the manner in which effect is given to the provisions of the Convention, the Committee requests the Government to include in its next report information on the size and distribution of the labour force; the nature, extent and trends of unemployment and underemployment; manpower projections; income and poverty; technological change; and the impact on employment of economic and social policy measures (Part VI of the report form).

2. Article 3 of the Convention. In reply to its previous comments, the Government states that it hoped to obtain the collaboration of trade union organizations and employers' organizations in the quest for successful solutions to the crisis and for improvements in the living standards of the population. The Government deplores the fact that the workers' organizations that were called upon rejected social consultations. Employers' organizations only sought consultation in certain circumstances. The Committee is bound to emphasize the importance of the consultation with the representatives of the persons affected by the measures to be taken. The experience and views of such persons should be taken fully into account, their full cooperation secured in the formulation of the above policy and their support enlisted in its implementation. The Committee hopes that greater efforts will be made in this connection and that in its next report the Government will be in a position to indicate the results achieved in this respect. Please also state whether consultations have been held with representatives of the rural sector and the informal sector.

3. In a direct request, the Committee is raising other issues related to the application of the Convention (activities of the programme to support micro-enterprises and the emergency employment programme; the activities of the National Employment Institute; the impact of the new legislation on the creation of lasting employment).

Finland (ratification: 1968)

1. The Committee took note of the Government's report and of the comments of the Central Organization of Finnish Trade Unions (SAK), the Finnish Employers' Confederation (STK), the Employers' Confederation of Service Industries (LTK) and the Local Authority Employers' Commission (KT) which were included. It also notes the texts of the legislation amending the 1987 Employment Act which was supplied by the Government.

2. The information contained in the Government's report reveal a rapid and worrying decline in the employment situation. The deep recession in economic activity - characterized by a 6.5 per cent drop in production in 1991 - led to a 6.2 per cent decline in total employment in 1991. The unemployment rate, which rose from 3.5 per cent in 1990 to 7.6 per cent in 1991, reached 12 per cent in 1992. The drop in employment was particularly marked in industry, construction and commerce, and there was a sharp increase in unemployment among young people and long-term unemployment.

3. The Government indicates that its labour market policy, which is an essential component of its employment policy, is still based on the provisions of the Employment Act of 13 March 1987 (Legislative Series 1987-Fin. 1) which organizes the placement of unemployed workers and, where appropriate, requires the State and the municipalities to provide temporary employment for unemployed youth and the long-term unemployed. Implementation of this requirement, however, has not curbed the increase in long-term unemployment which affected 26,000 persons in 1992 - as opposed to 3,000 in 1990 - nor the increase in unemployment among persons under the age of 25, for whom the estimated unemployment rate in 1992 was 23 per cent. Furthermore, in view of the difficulties of applying the Act at a time of recession and high and rising unemployment, and in view of the objective of lower public expenditure, the obligations on public administrations and services have been considerably reduced. Thus, for example, municipalities are no longer required to provide full-time temporary employment, but only part-time temporary employment. The Committee notes in this connection that, according to the KT, the municipalities are having to reduce their own permanent staff and are experiencing great difficulties in finding enough jobs that match the skills of the unemployed and are likely to improve their chances of employment in the open labour market.

4. The Committee notes with interest the information concerning the measures taken to improve the efficiency of the employment services, and measures in the area of the development of human resources, particularly the promotion of training for the labour market in cooperation with enterprises, which was a measure designed and implemented as an alternative to lay-offs. The Committee asks the Government to refer in this connection to its comments under Convention No. 88, of which it examined the first report this year, and Convention No. 142.

5. In its comments on the Government's report, the SAK considers that the funds allocated to training for the labour market are inadequate. Although public expenditure on unemployment rose from 2 to 4 per cent of GDP during the period under consideration, saving

measures mainly affected the programmes for the long-term unemployed. According to this organization, fiscal issues related to the equilibrium of the budget economy have been given more attention than the long-term targets of labour market policy. The OECD confirms in its study published in August 1992 that the relative share of resources devoted to active labour market measures has decreased.

6. It emerges from the information available to the Committee that labour market policy measures have not been able to contain growing unemployment, particularly youth and long-term unemployment. Moreover, full application of the provisions of the 1987 Act has been impaired by the requirements of a balanced budget, and the amendments to them have had the effect of limiting the financial commitment of the public authorities, which is likely to make the measures envisaged less effective. Should this prove to be so, the objective of "ensuring full employment", established in the 1987 Act, is likely to be put in jeopardy or postponed. The Committee would appreciate any information which the Government might be prepared to provide on any substantive debates that have taken place, particularly when the various amendments were made to the Act, on the question of full employment both as an objective and as a means of ensuring the right to work laid down in the Constitution.

7. If the foregoing evaluation of the employment situation is accurate, then the Committee suggests that it would be advisable to review in depth both the instruments of employment policy and, more generally, the "relationships between employment objectives and other economic and social objectives" (Article 1, paragraph 3, of the Convention). The Committee wishes to recall in this connection that under Article 2 States parties to the Convention must decide and keep under review, within the framework of a coordinated economic and social policy, the measures to be adopted for attaining the objectives of employment. It trusts that in its next report the Government will provide detailed information on the manner in which its choice of economic policy contributes to the promotion of full, productive and freely chosen employment, stating, in particular, how the measures adopted in the areas of budgetary, taxation and monetary policies, industrial and trade policies, and prices, incomes and wages policies contribute to attaining this essential objective. The Committee notes that section 5 of the Act of 1987, as recently amended, no longer requires the Council of Ministers to establish annually a list of short-term employment policy objectives, and asks the Government to indicate the procedures by which the commitment of the various ministerial departments and the coordination of their actions are now ensured in this area.

8. Lastly, the Committee notes the joint communication from the STK and the LTK concerning the representation of employers' organizations in the tripartite bodies set up in connection with the Ministry of Labour. The Committee also refers to its pending comments on Conventions Nos. 88 and 142, and would be grateful if the Government would indicate the procedures for the appointment of representatives of employers, workers or other persons affected who participate in consultations on employment policy and cooperate in its implementation, in accordance with the provisions of Article 3, to which the Committee pays a particular attention.

France (ratification: 1971)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee has taken note of the Government's report for the period ending June 1990 and of the attached documents dealing in particular with the results of the employment policies in 1989. Referring to the information supplied by the Government and the data given in the reports and studies of OECD, the Committee observes that the sustained growth of economic activity enabled total employment to increase by 1.2 per cent in 1989 and by 1.1 per cent in 1990, while the unemployment rate (standardized by OECD) was reduced from 10 per cent in 1988 to 9 per cent in 1990. Since the end of the period covered by the report, however, employment has virtually ceased to grow owing to the fall-off in performance of the economy, and in 1991 the unemployment rate increased sharply to 9.8 per cent. The unemployment rate is still higher in France than in most other OECD countries which have ratified the Convention, and the duration of unemployment there remains a source of concern. Long-term unemployment (for a year or more) still accounts for 44 to 45 per cent of total unemployment; while slightly down among young people, it has grown worse for workers in the peak-activity age groups, an increasing proportion of whom have been unemployed for over three years. Workers with few skills form a category particularly sensitive to the unfavourable trend of employment and unemployment. The trend towards dualism in the labour market, which was noted in the previous comments, appears to be persisting.
>
> 2. The Government explains in its report the main lines pursued by its employment policy, whose priorities are: to avert difficulties of employment management at undertaking level by helping undertakings to foresee their labour problems and respond to them, in particular by measures to train their employees; to promote employment under a policy of backing local economic development and supporting the creation of new activities; and to simplify and rationalize the machinery of assistance in the integration of jobseekers by involving local actors more closely in their management, improving the quality of the actions undertaken and concentrating efforts in favour of the groups most exposed to the risk of exclusion, such as people who have been unemployed for more than three years, older unemployed persons and persons in receipt of the "minimum integration income" (RMI).
>
> 3. The Committee notes the information concerning the incidence of the various measures taken along these lines. The arrangements for preventing dismissals and for reclassifying dismissed workers have been strengthened in pursuit of the policy of backing restructuring. Measures of assistance to unemployed persons who set up or take over undertakings made a 17 per cent contribution to the creation of undertakings in 1989. Half of the 71,000 jobs filled in that year under the system of exemption from social contributions for the engagement of a first employee

went to unemployed persons. As to the arrangements for assistance in the training and integration of jobseekers, the return-to-employment contract, a new form of incentive for the engagement of long-term unemployed persons, made it possible by the end of October 1990 to reintegrate 83,000 unemployed persons, 46 per cent of them under contracts of indefinite duration. By the same date, 230,000 young people had been recruited on alternate training contracts, in most cases of limited duration. The "employment solidarity contract", for its part, enabled public agencies or associations to take on 177,000 persons between February and October 1990 for a fixed term. The Committee would be grateful if the Government would continue to supply detailed information on the results achieved by these various programmes and to state in particular how far they contribute to the effective and lasting integration of the beneficiaries in employment.

4. The Committee appreciates the information supplied by the Government but observes that it deals exclusively with specific policies of employment and labour market management. It appears that in recent years these policies alone have not made it possible to advance towards the objective of full employment, whereas the objective of "competitive disinflation" pursued by means of restrictive macroeconomic policies seems largely to have been attained, judging by the difference in inflation rates for those of the main OECD countries. With reference to its previous observations, the Committee would be grateful if the Government would supply in its next report full information calculated to enable it to assess the way in which the Convention as a whole is applied. It again asks the Government to indicate, in response to the questions in the report form, the measures taken or contemplated to give effect to the fundamental provisions of the Convention, among which Article 1 asks each Member to declare and pursue, "as a major goal", an active policy designed to promote full, productive and freely chosen employment, while Article 2 provides that the measures to be adopted for attaining those objectives should be decided on and kept under review "within the framework of a coordinated economic and social policy". The Committee further asks the Government to explain how representatives of the persons affected, and in particular representatives of employers and workers, are consulted concerning employment policies "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies", as required by Article 3 of the Convention.

Germany (ratification: 1969)

1. With reference to its previous observation, the Committee notes the Government's report for the period ending June 1992. It notes that the contrasted development of production and employment in the two parts of the country, as well as the problems of compiling and comparing statistics, according to the Government, justify the

submission of a report in two separate sections concerning respectively the former Western *Länder* and the new Eastern *Länder*. The Committee once again hopes that the Government's next report will enable it to assess the manner in which the Convention is applied throughout the country.

2. With regard to the Western part of the country, the Government states that it experienced in 1990 and 1991 a recovery in the growth of economic activity, particularly as a result of the demand from the new *Länder* following monetary union. The growth in employment made it possible not only to integrate into the labour market new arrivals from the Eastern part and from outside the country, but also to continue the decrease in the unemployment rate. According to the OECD, the standardized unemployment rate fell from 4.9 per cent in 1990 to 4.3 per cent in 1991. However, it rose once again to 4.7 per cent at the end of the reporting period due to the sustained high rate of growth of the active population in a context of lower economic growth. Among the favourable developments over the reporting period, the Government refers to the reduction of around 10 per cent in the unemployment rate of young persons, which remains considerably lower than the overall rate, as well as in long-term unemployment. The Government sees in these successes a confirmation of the effectiveness of the active employment policy measures which it has implemented and reinforced, particularly in the field of training. The Committee also notes that, according to the survey supplied by the Government in reply to its request, 60 per cent of the fixed-term contracts concluded up to 1988 under the Employment Promotion Act of 1985 had been converted into contracts without limit of time. The Committee requests the Government to continue to supply information on the application of the above Act and the procedures adopted to ensure the lasting vocational integration of the persons concerned.

3. In the second part of its report, the Government supplies interesting information concerning the employment trends and employment policy implemented in the new *Länder*. It emphasizes that the brutal confrontation of these *Länder* with the market and the international division of labour revealed the unsuitability and lack of competitiveness of their economy, as well as the low productivity resulting from outmoded technologies, which explains the fact that the transition to a market economy resulted in a rapid decline in production and a contraction of around one-third in total employment. The Government considers that it was possible to contain unemployment, which the OECD estimated at over 15 per cent in 1992, at around one-third of jobs being lost, particularly as a result of the intensive application of active labour market policy measures. It states that these measures, the scope of which is broader than at first envisaged, represent three-quarters of the total expenditure on employment and have the priority objectives of combating unemployment among young persons and women through training and reintegration programmes, as well as the establishment and strengthening of employment services, which have already provided guidance to nearly 40 per cent of the active population. The Government also states that employment policy measures are an integral part of its overall policy to restructure the economy. Training measures, by taking advantage of

the temporary unemployment of workers to provide them with skills which are suited to the new market conditions, contribute to achieving a lasting solution to the problem of unemployment. The Committee requests the Government to continue supplying information in order to enable it to evaluate, taking into account the objectives of the Convention, the results achieved by the various employment policy measures. It hopes that it will soon be in a position to supply for the new Länder information on the employment situation and trends which is as precise and detailed as the information available for the Western Länder.

4. Although the Government indicates that labour market policies are the centre-piece of its strategy, it nevertheless recognizes that they cannot on their own resolve the problem of unemployment in the new Länder. It supplies information on the taxation measures which have been taken to promote investment for the creation of jobs, which the Committee notes with interest. It would be grateful if the Government would supply information in its next report on the contribution of other aspects of its general economic policy, in fields such as monetary and budgetary policy, the determination of prices and wages and privatization, to the achievement of the employment objectives set out in Article 1 of the Convention. The Committee notes, in the same way as the OECD, that the process of the transition to a market economy has been accelerated by various factors, including the monetary union undertaken in 1990, but with a high cost in terms of the number of jobs lost. The Committee would be grateful if the Government would indicate the measures which have been taken in order to ensure that these effects on employment are taken into consideration when determining and implementing policies and programmes to promote economic development or other economic and social objectives (Article 2). Finally, it requests the Government to include in its next report information on the manner in which the representatives of the persons affected by the measures to be taken are consulted concerning employment policies and cooperate in their implementation (Article 3). In making these requests, the Committee has not lost sight of the unique nature of this case.

Hungary (ratification: 1969)

1. The Committee notes the Government's report for the period 1990-92, which provides detailed information in reply to its previous comments and encloses a communication from the National Federation of Hungarian Trade Unions.

2. In order to evaluate the general situation and recent trends in the employment market, the Committee has also examined studies and data available at the Office or contained in OECD reports and surveys. The Committee notes that economic activity dropped further during the period under consideration. The decline in production, which stood at 0.2 per cent in 1989, rose to 3.3 per cent in 1990 and 10 per cent in 1991. The OECD forecast that it would be limited to 4 per cent in 1992. As a result of the fundamental structural reforms required by the transition to a market economy and the collapse of the

former trading system, job losses were most marked in agriculture and construction but also to be found in commerce and industry. The contraction of public sector employment has only partly been offset by the development of private sector employment which, admittedly, is not fully reflected in official statistics. Consequently, the unemployment rate rose from 1.6 per cent in 1990 to 7.5 per cent in 1991; the OECD forecast 13 per cent by the end of 1992. Unemployment especially affects workers in the high-activity age groups and with the most limited education, and is also concentrated in certain regions of the country. Lastly, the length of unemployment is tending to increase and more than 50 per cent of the jobless have been unemployed for more than six months.

3. In its report the Government provides substantial information on active labour market policy measures to cope with the high and rising unemployment. The implementation of community services and public works employment programmes is decentralized and financed by the employment fund, and these programmes are being extended to new categories of beneficiaries. However, they are only a short-term solution for a low skilled labour force. Thanks to the loans scheme for establishing or taking over enterprises, some 40,000 jobs have been maintained or created. Although the conditions for such loans have been made more flexible, the lack of available financial resources and the lack of qualifications and knowledge of market conditions on the part of the persons concerned were, in many cases, an obstacle to the establishment of viable enterprises by unemployed workers. In addition, it would appear that particular attention should be paid to developing vocational training and retraining programmes for the unemployed. The Committee would be grateful if in its next report the Government would provide detailed information on measures taken in this area and the results obtained.

4. The Committee also notes the information on the application of Act No. IV of 1991 respecting promotion of employment and its subsequent amendments. In order to maintain a balanced budget at a time of rapid increase in expenditure for unemployment benefit, a solidarity fund made up of contributions from employers and workers is used for the payment of unemployment benefit, while the Employment Fund uses its resources obtained from the budget to finance active measures for training and employment promotion. Furthermore, decentralized institutions are responsible for designing and implementing employment policy at local labour market level and for organizing consultation of the social partners for this purpose.

5. According to the National Federation of Hungarian Trade Unions, however, the views expressed by workers' organizations in the tripartite consultation process are not taken into consideration by the Government. More generally, the above organization considers that the obligations laid down in the Convention are only partly fulfilled. The employment policy is not targeted on the objectives laid down by Article 1 of the Convention, owing, in particular, to the lack of a genuine industrial policy and inadequate coordination of employment objectives with the other economic and social objectives. The Committee notes these allegations, and asks the Government to specify in its next report how employment objectives are linked to other economic and social objectives, in accordance with Article 1,

paragraph 3, of the Convention, and how, in consultations with representatives of the persons affected by employment policy measures, and particularly representatives of employers and workers, full account is taken of their experience and views, in accordance with Article 3.

6. The Committee has been informed that, since August 1991, an ILO technical cooperation project has been implemented, entitled "Employment policies for transition in Hungary". The project coverage includes overall economic policies and employment creation, incentives for job creation programmes for the unemployed, the employment effects of restructuring and privatization, and the development of a database and information on employment. In the view of the Committee, the project, which is now in its final phase, is likely to contribute to more effective application of the Convention. The Committee would be grateful if the Government would indicate the measures taken as a consequence of the project and the results obtained (point V of the report form).

Morocco (ratification: 1979)

1. The Committee took note of the Government's reports for the periods ending June 1991 and June 1992, which contain information in reply to its previous comments. The data on the labour market supplied by the Government shows that the number of new jobs created each year is still insufficient to make up for the rapid growth in the active population. Despite a sustained expansion of economic activity, new arrivals on the labour market, whose educational level is tending to be higher and a growing proportion of whom are women, are encountering substantial difficulties in finding a job. Over half of the unemployed are less than 25 years of age and the unemployment rate, which reached a national average rate of 12.1 per cent in 1991, varied between 5.6 per cent in rural areas and 20.6 per cent in urban areas. According to the Government, statistical surveys show both an overall imbalance between supply and demand and the inadequacy of training in relation to the skills sought on the labour market. The Committee requests the Government to continue to supply as detailed and recent statistical data as possible on the labour market.

2. The Government states that in order to combat unemployment it is implementing a series of labour market policy measures including direct job creation measures and incentives for the creation of jobs, as well as measures to strengthen and adapt the vocational training system. It makes specific reference, within the context of national promotion work, to substantial construction and public work projects which are labour intensive and have a favourable impact on employment and the training of those concerned. The Committee would be grateful if the Government would describe how they contribute to raising the skill levels and achieving the lasting integration of the workers concerned into employment. The Government also states that measures to encourage investment for job creation have made it possible to create a growing number of jobs in the private industrial sector, particularly for young graduates. It emphasizes that the scheme to support young promoters, the objective of which is to facilitate the

access to credit of young entrepreneurs, has been strengthened. The Committee requests the Government to supply detailed information on the results achieved by the various incentives for the creation of jobs.

3. The Committee notes with interest the measures which have been taken and are envisaged to combat unemployment more effectively among the young. It notes in particular the establishment of the National Council for Youth and the Future (CNJA), which has the mission of ensuring the integration of young graduates into working life. It also notes the efforts deployed to establish new public training institutions and to develop further training or training and employment schemes. The Committee would be grateful if the Government would supply information in its next report on the implementation of the national plan for the training and integration of young graduates. It also requests the Government to state whether its plan to establish a National Employment Agency has come to fruition.

4. With reference to its previous observation, the Committee notes that the Government considers that the measures that it has described are sufficient to refute the allegations made by the Democratic Confederation of Labour and the General Union of Moroccan Workers that it was not pursuing an effective employment policy. The Committee recalls that these two organizations considered that the Government, by abandoning its planning policy and replacing it by plans to balance its finances in accordance with the advice and directives of the IMF, was not attaching sufficient importance to the objectives of employment. The Committee notes, however, that the Government's report does not include the information requested on the procedures adopted to ensure that the impact on employment of the measures which have been taken to promote economic development and other economic and social objectives are taken into consideration, particularly within the context of the implementation of the structural adjustment plan. The Committee is bound to emphasize in this respect that Article 1, paragraph 3, of the Convention provides that the employment policy shall take due account of the "mutual relationships between employment objectives and other economic and social objectives", and that Article 2 provides that the measures adopted to achieve the employment objectives shall lie "within the framework of a coordinated economic and social policy". It trusts that the Government will supply full information in its next report, in response to the questions in the report form, on the effect given to these provisions of the Convention.

5. In response to the allegations made by the above organizations of the non-observance of Article 3, the Government states that the organizations of employers and workers are consulted within the framework of the sessions of the CNJA and the national and regional vocational training committees. The Committee requests the Government to report the opinions gathered during these consultations and describe the manner in which account has been taken of them, by attaching any relevant extracts of records or reports. It also recalls that in addition to the representatives of organizations of employers and workers, consultations with the representatives of the persons affected by employment policy measures should also include representatives of other sectors of the active population, such as

those working in the rural sector and the informal sector. The Committee notes the abolition of the Higher National Development and Planning Council and the recent establishment of the Economic and Social Council by the Dahir of 9 October 1992. It would be grateful if the Government would indicate the composition and competence of this latter institution and describe the manner in which it can fulfil the functions of consultation on matters relating to the employment policy which were within the mandate of the above Higher Council.

New Zealand (ratification: 1965)

1. The Committee took note of the Government's report which contains detailed information in reply to its previous comments and encloses a communication from the New Zealand Employers' Federation on the application of the Convention.

2. With reference to its previous observation, the Committee notes that the downward trend in employment, which was already marked in the previous period, continued between June 1990 and June 1992. Total employment dropped by 1.2 per cent while unemployment increased by 36 per cent. The unemployment rate rose from 7.5 per cent to 10 per cent of the labour force. The Government points out that unemployment has reached a particularly high level in New Zealand terms and refers to worrying characteristics in the way it is distributed over the various categories of the population: there is more long-term unemployment, the greatest increases in unemployment were among young people and unemployment has increased significantly among the Maoris and Pacific Island Polynesians whose unemployment rates have reached 25 per cent. The Committee also notes that involuntary part-time work has increased, particularly among women, at the expense of full-time employment.

3. The Government indicates that the overall strategy of its economic policy remains unchanged and is based on the Government's belief that the best way to generate employment opportunities in the long term is to create, in the immediate future, an environment conducive to growth of supply and to remove barriers to the necessary adjustments. Firm monetary and fiscal policies are aimed at reducing inflation and public debt, and at the same time major structural reforms are being implemented which include measures for privatization, the phasing down of border protection and radical changes in wage fixing. In this connection, the Government refers to the adoption of the Employment Contracts Act, 1991, under which employers and employees are free to negotiate conditions of employment at enterprise level. The New Zealand Employers' Federation considers that the adoption of this new system of labour relations which aims to make the labour market more flexible was logical in view of the deregulation of the goods and capital markets. The Government recognizes that the structural reforms have contributed directly to job dislocation in sectors where protective devices have been dismantled and that particular groups and individuals are facing difficulties in adjusting to the new labour market conditions. However, it considers that the gains of economic reform in terms of lower inflation and increased competitiveness have created the right

conditions for eventual employment growth. In this respect it answers to the allegations made by the New Zealand Council of Trade Unions, to which the Committee referred in its previous observation, to the effect that higher priority was given to fighting inflation, and that the Government's commitment to the objective of full employment was ambiguous. The Government recognizes, however, that improvement in the employment situation will take time, as labour markets are slow to adjust.

4. The Committee notes that the Government stated when the 1992 budget was adopted that the high level of unemployment was the country's main social problem. It indicates in its report that the implementation of an active labour market policy is an essential component of its social and economic programme, and describes in detail a set of measures to promote job creation and vocational training and integration for the unemployed. The Committee notes in particular that the Ministry of Labour has set up a Community Employment Group and regional teams to lend support, in the form of advice, technical assistance and grants, to local employment creation initiatives. There are also a number of programmes for the partial subsidizing of jobs in the private sector, the financing of employment for the long-term unemployed in environmental protection projects, the granting of allowances to start up businesses, the organization by the employment services of job search seminars and in-depth interviews with the long-term unemployed. The Committee asks the Government in its next report to provide a detailed evaluation of the results obtained by each of these programmes, particularly in terms of the viability of the jobs created and the lasting integration of the persons concerned.

5. The Committee appreciates the quality of the information supplied by the Government. It is none the less bound to note that although the new approach in economic policy of the last few years has proven quite successful in terms of reduced inflation, reduced public debt and improved competitiveness of the economy, it has not yet enabled the ultimate objective of employment growth to be attained. As it indicated in its reports of 1988 and 1990, the Government still considers that growing unemployment is one of the costs, in the short term, of its economic adjustment strategy. However, it reaffirms its commitment to the objective of full employment, while recognizing that it is not inscribed in the legislation or any other formal document. The Committee takes due note of this commitment in principle. However, in view of the fact that the unemployment rate has doubled since 1988 and that this situation threatens to marginalize if not exclude certain categories of the population, the Committee wishes to draw the Government's attention once again to Article 2 of the Convention which stipulates that each Member shall decide on and keep under review, within the framework of a coordinated economic and social policy, the measures to be adopted to promote, as a major goal, full, productive and freely chosen employment.

6. With regard to Article 3, the Committee notes from the Government's report that no formal consultations have been held with the representatives of employers and workers, whose views are sought on specific issues or when legislative reforms are envisaged. It recalls that the Convention requires not only consultations with

employers' and workers' organizations, and other persons affected, when employment policies are formulated, but also their cooperation in the implementation of such policies. The Committee would be grateful, therefore, if the Government would include in its future reports detailed information on the effect given to this essential provision of the Convention, indicating the consultations that have been held with representatives of the persons affected during the period under review, the procedures for such consultations, the views recorded and the manner in which account has been taken of them.

Papua New Guinea (ratification: 1976)

The Committee notes with regret that for the fifth year in succession the Government's report has not been received. It hopes that a report will be supplied for comments by the Committee at its next session and that it will contain full information on the matters raised in a direct request.

Paraguay (ratification: 1969)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Government states that, since the move towards a democratic system, a national economic and social development plan for the biennium 1989-90 has been formulated. The Committee notes with interest that the primary objective in relation to employment and human resources is that of "maintaining the growth rate of the absorption of the labour force, seeking to bring the national economy to a situation of full employment". The other objectives concern the relationship between the formal and informal sectors, achieving a progressive increase in real wages, increasing the level of technical, managerial and vocational skills of the workforce, improving worker-management relations, strengthening the machinery for the collection and interpretation of labour market data and achieving greater coordination between labour institutions. The Government adds in its report that, in order to achieve these objectives, various measures are being taken in both the public and private sectors and that these involve the revision of various laws such as the legislation respecting investments, the Labour Code, the tax legislation and much other legislation that is related directly or indirectly to employment. There has been strong employment growth in the informal sector, and even if this employment is not reflected in current statistics it is one of the major reasons for the decrease in the unemployment figures, although it has given rise to greater underemployment (estimated at around 40 per cent) in informal work that brings in little remuneration. In view of the predominance of young people in the population, which is growing and becoming very significantly concentrated in urban areas, the

Government accords special importance to the development of youth employment, in connection with which it is expecting technical assistance from the Office. Furthermore, as laid down in Articles 1 and 2 of the Convention, measures have been taken to coordinate vocational training measures with prospective employment opportunities and to collect and analyse information on the labour market as a basis for the adoption of employment policy measures. The Committee hopes that in its next report the Government will indicate the extent to which the objectives set out in the national economic and social development plan of 1989-90 (45,000 new jobs per year) have been achieved and that it will also be able to supply information on the measures that have been adopted under the "policy guidelines for employment and human resources" as set out in the plan. Please indicate any difficulties that have been encountered in pursuing an active policy designed to achieve full employment.

2. With reference to the comments that the Committee has been making for a number of years on the application of Article 3, the Government states in its report that the representatives of workers and employers participate fully in the councils on which they sit, but that employment policy measures are not covered in full in such bodies (such as the Social Welfare Institute, the National Service for Vocational Advancement, the National Workers' Bank, the National Council on Minimum Wages, and the Permanent Board of Conciliation and Arbitration). The Government adds that, since the new authorities took power, there has been greater openness and interest both by the national authorities and the other social partners who are active in the field of employment. The Committee trusts that the Government will be able to supply information in its next report on the progress that has been achieved in relation to the consultations concerning employment policies that are to be held with representatives of the persons affected (representatives of employers' and workers' organizations and representatives of other sectors of the economically active population, such as those working in the rural sector and the informal sector). The Committee points out, in relation to the objective of the consultations, that Article 3 of the Convention provides that such consultations shall be held "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support" for the policies in question.

3. In a direct request, the Committee is requesting information on certain aspects of the application of the Convention (the impact of the activities of the National Service for Vocational Advancement and of current public works, as well as statistical data on the labour market and the situation of certain categories of workers, together with information on the employment of young persons and programmes to support micro-enterprises).

Peru (ratification: 1967)

1. The Committee notes the communications from the following workers' organizations: the Fishermen's Union of Chimbote, dated 9 September 1992; the Single Union of Workers at Minero Perú, S.A., dated 1 June 1992; the General Confederation of Workers of Peru, dated 6 June 1992, which comments, among other matters, on the impact of structural adjustment on employment and income; the Federation of Workers of the Tejidos la Unión Ltda. Factory, S.A. ("Fede Unión"), dated 22 June 1992; the Union of Workers of Public Registers, dated 22 June 1992, in which reference is made to the impact of the reorganization of the National Office of Public Registers; and the Union of Employees of Hierro Perú, dated 14 September 1992.

2. The Committee notes the Government's observations received in February 1993 in relation to the points raised by the Federation of Workers of the Tejidos la Unión Ltda., S.A. Factory ("Fede Unión") and by the Union of Workers of Public Registers. With reference to the comments made by the organization of workers of the National Office of Public Registers (ONARP), the Government states that it inherited a public administration which was too large and inefficient, resulting in more precarious jobs with low levels of productivity. According to the Government, it was necessary to undertake a reorganization of the ONARP. The workers affected will be relocated to other state bodies, since various measures have been adopted within the framework of the Act to promote employment (Legislative Decree No. 728) to provide jobs which offer an adequate living standard.

3. The Committee notes the Government's report received on 23 February 1993. The Government supplies detailed information on the application of the Convention and information in reply to the Committee's previous comments in 1992. The Committee proposes to postpone until its next session in March 1994 its examination of the information contained in the above report. The Committee hopes that in the meanwhile the Government will consider it appropriate to make its observations on the other comments by workers' organizations, which note their concern at the deterioration in the labour market.

Spain (ratification: 1970)

1. The Committee took note of the very full and detailed report supplied by the Government for the period ending 30 June 1992, which transmits comments relating to the application of the Convention from the General Union of Workers (UGT) and the Trade Union Confederation of Workers' Committees (CC.OO.). It is particularly grateful that the Government has made substantial and precise replies to the Committee's previous comments, as well as to the points raised by the two trade union organizations.

2. The Committee notes the detailed statistics and analyses of developments in the active population, employment, underemployment and unemployment for the years 1990 and 1991. Supplemented for 1992 by data contained in OECD surveys, this information shows the persistence of a worrying employment situation, characterized in particular by a continuing high level of unemployment. The strong economic growth

achieved over previous years has been followed, since 1990, by a slow-down which has become even more marked since the beginning of 1992 and which has affected the creation of jobs. Despite the slower growth of the active population, the unemployment rate, which was 16.3 per cent in 1990 and 1991, has risen again and is estimated at nearly 18 per cent in 1992. The employment situation is still characterized by important disparities between regions, sexes and age groups, which continue to be affected very unequally by unemployment and underemployment. The regional variation in unemployment is still considerable, with rates ranging between 10 per cent (Rioja) and 26 per cent (Andalucia). A decrease in the unemployment rate for women and young persons over the period has been accompanied by an increase in the number of unemployed men in the age groups in which they are most active. Furthermore, the increase in temporary employment, which now accounts for more than one-third of all employment, bears witness to a trend towards more precarious employment which has already been noted by the Committee. The UGT and the CC.OO. express concern at the data on employment and unemployment and emphasize, in particular, the harmful effects of the development of more precarious forms of employment not only for the workers but also for the national economy.

3. The Government states that in order to combat the growing unemployment and its particular impact on certain categories of the active population more effectively it has harmonized and rationalized all the measures taken by the State to encourage recruitment. It refers in this respect to the adoption of Act No. 22/1992 of 30 July 1992 respecting urgent measures for the promotion of employment and the protection of unemployment, the provisions of which aim in particular to strengthen active measures to encourage the recruitment into full-time employment and employment without limit of time of unemployed persons who have particular difficulty in entering the labour market, such as young persons, older workers, women and the long-term unemployed. In order to ensure that these measures achieve their objective and to avoid abuse, the grant of the incentives is subject to the net creation of jobs by the enterprise, which also has to undertake to maintain the level of employment for three years. Furthermore, the minimum duration of employment promotion contracts has been raised from six to 12 months, while full-time integration or training contracts no longer allow for an exemption or reduction of employers' social security contributions. The Government also describes other employment promotion programmes, such as the special employment programmes in the public sector and the rural employment plan. It also refers to the National Vocational Training and Integration Plan, under which priority is now given to the training for employment of young persons who are failures at school, the long-term unemployed and women with low skill levels.

4. The UGT and the CC.OO. make a series of allegations relating to the provisions and the circumstances of the adoption of Legislative Decree No. 1/1992 of 3 April 1992 respecting urgent measures for the promotion of employment and protection of unemployment. The Committee has examined the allegations relating to entitlement to unemployment benefits and their calculation in relation to the relevant provisions of Convention No. 102, and refers to its comments on the application of that Convention. However, it notes that, with regard to the

circumstances which result in the suspension or reduction of entitlement to the above benefits, the CC.OO. considers that the new definition of suitable employment allows an excessive extension of the concept which is likely to be applied in practice in a manner which is contrary to the objective of freely chosen employment, as set out in Article 1, paragraph 2(c), of the Convention. The Government states that this definition remains essentially unchanged and responds to the need to limit the protection in question to cases of temporary and involuntary unemployment. The Committee requests the Government to supply information on the implementation of this provision in relation to the principle of freely chosen employment.

5. The two organizations also accuse the Government of having eliminated, by means of the above Legislative Decree, the opportunity which was provided to the unemployed who wished to create their own enterprise to receive their unemployment benefit in the form of a lump sum. They consider that it has therefore revoked an important measure for the promotion of self-employment. The Government justifies the elimination of this measure by its concern to regularly review the various employment promotion programmes taking into account the results that they have achieved. It states that in this case the high proportion of rapidly abandoned activities undertaken as a result of this measure bore sufficient witness to its ineffectiveness and it states that new measures for the promotion of self-employment are under examination. The Committee recalls the conclusions concerning self-employment promotion adopted by the Conference (77th Session, June 1990) and would be grateful if the Government would supply information in its next report on any new measure adopted to this effect.

6. More generally, the UGT considers that Legislative Decree No. 1/1992 constitutes a regression with regard to the objective of an active policy to promote employment, in the sense of Article 1 of the Convention. According to the UGT, employment is regarded as a residual variable with the labour market bearing the burden of structural adjustments. The above central trade union organization notes that the proportion of the budget devoted to active measures is still relatively low in relation to most other European countries, particularly taking into consideration the Spanish unemployment rate. It concludes that it is necessary to reorient the employment policy since greater flexibility on the labour market has not had the positive effects on the creation of jobs which were envisaged. The Government emphasizes that the new provisions are aimed at giving better guarantees for the integration of the persons concerned into the labour market and at ensuring that the various programmes are not used with the sole aim of reducing labour costs. It states that a large proportion of temporary contracts, when accompanied by incentives, are converted into contracts without limit of time or are renewed. The Committee would be grateful if the Government would describe the extent to which the various programmes contribute to the effective and lasting integration of the persons concerned into employment. Furthermore, in view of the rise in unemployment among the categories of the active population which are not covered by measures to encourage recruitment, it requests the Government to indicate the methods which it intends to use to ensure that these

measures do not result in a redistribution of existing jobs between the various categories of the active population, rather than the creation of new jobs.

7. Furthermore, in the opinion of the UGT and the CC.OO., the Government's recourse to the unusual procedure of a Legislative Decree to adopt these measures bears witness to its desire to avoid the preliminary tripartite dialogue required by Article 3 of the Convention as well as the necessary democratic debate. The Government considers that it satisfied this latter requirement by submitting the Legislative Decree to Parliament, under the procedure which resulted in the adoption of Act No. 22/1992 of 3 July 1992. It also states that it only had to have recourse to an emergency procedure by reason of the rejection by workers' organizations of its proposal of June 1991 to open a vast negotiation to revise all the procedures for recruitment, the labour ordinances, and the systems for the protection of unemployment and vocational training, with a view to the conclusion of a "social pact for progress" with the social partners. The Committee is bound to express its concern at the difficulties which appear to be encountered in establishing a tripartite dialogue concerning employment policy measures. It notes in this respect the recent establishment of the Economic and Social Council and would be grateful if the Government would indicate whether this institution has examined matters relating to employment policy, or whether it is envisaged that it will do so.

8. Finally, the Committee recalls that under Article 2, the measures to be adopted with a view to achieving these objectives must lie within "the framework of a coordinated economic and social policy". In order to enable it to evaluate the effect given to this fundamental provision of the Convention, the Committee would be grateful if the Government would supply in its future reports the information required in this respect by the report form.

Sweden (ratification: 1965)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> 1. The Committee notes the detailed information supplied by the Government in its report for the period ending June 1990. According to this information, the favourable development of the employment market continued during the period under consideration. Employment continued to rise and the already high participation rates increased still further for both sexes and for the various age categories, while unemployment affected only 1.5 per cent of the active population. Recent data (particularly those published by the OECD), however, show that, since the end of that period, the employment situation has tended to worsen appreciably. In a situation of declining economic activity and a marked slow-down in employment growth, the unemployment rate rose to over 3 per cent by the end of 1991, despite a decrease in the active population. Whilst the excellent position described in

the report accompanied a policy clearly in step with the aims of the Convention, recent indications of some difficulties have been met with prompt response in an effort to maintain the position.

2. The documents to which the Government refers in its report show that full employment is one of the overall objectives of its general economic policy, which also aims to achieve rapid economic growth, an equitable distribution of income, a healthy balance of payments and a low inflation rate. However, in its guidelines for the 1990-91 Budget Act, the Government states that the immediate future will be crucial in deciding whether or not it will be possible to reduce inflation without, as is usual in other countries, having recourse to high unemployment. The Committee would be grateful if the Government would supply information in its next report on the general economic policy measures that have been taken or are envisaged in the new context of a slow-down of economic activity in order to maintain the policy of promoting full employment as a "major goal".

3. The Committee notes that, during the period covered by the report, the Government continued to emphasize active employment promotion measures such as the provision of assistance for geographical mobility, the provision of paid vocational training to the unemployed, subsidies to enterprises recruiting young or disabled jobseekers, and the financing of training in enterprises intended to adapt workers to new technologies and changes in the organization of work. The Committee hopes that the Government will continue to supply detailed information on these measures and their impact on employment, and on any new measures that are taken to combat unemployment.

Tunisia (ratification: 1966)

1. With reference to its previous observation, the Committee notes with interest the Government's report, which includes a set of valuable information on the achievements of the VIIth National Economic and Social Development Plan (1987-91) in the field of employment, and the situation and recent trends on the labour market, as well as the main objectives of the VIIIth Plan with regard to employment policy. According to the data compiled in the latest national population-employment survey, the unemployment rate was 15.3 per cent of the reference active population in 1989. The considerable growth of employment, although below the forecast level, has proved insufficient to absorb the growth in the population of working age. The Government states in its report that unemployment remains a matter of concern. It continues to affect massively young persons seeking their first job and persons with a lower educational level, and it affects the sexes and the regions in an unequal manner.

2. The Government describes how, in relation with the implementation since 1986 of the structural adjustment plan, the policy of combating unemployment, which was essentially social in origin, has developed towards a more active concept of promoting the creation of employment and developing programmes for the most

vulnerable categories of the population. The Government's report contains, in this connection, statistical data on the number of young persons who have benefited from employment-training contracts or a vocational integration course, as well as on the increasing number of jobs created within the framework of projects financed by the National Fund for the Promotion of Employment and Small Trades. The Committee hopes that the Government will be able to specify in its next report the extent to which these programmes have contributed to the effective and lasting integration of the persons concerned into employment. It also notes the information on the contribution of the various regional development programmes to combating employment and underemployment. The Committee would be grateful if the Government would supply any available assessment of the impact of these programmes on the employment of the categories of persons for which they are intended.

3. The Committee notes the general objectives of the employment policy set out in the VIIIth Plan (1992-96). The policy to further develop structural adjustment, the opening up to the world economy and the modernization of the means of production are aimed at promoting exports, regional development and the creation of jobs. Based on a theoretical annual growth rate of 6 per cent, the growth in the number of jobs should exceed, for the first time, that of the active population and should make it possible to lower the unemployment rate to around 13 per cent by the end of the period. The Committee will not fail to follow with interest the achievement of these objectives. It also notes that it is planned to strengthen the various specific programmes for the promotion of employment intended for the social categories which are experiencing difficulties. It notes with interest, in relation to its comments on the Government's first report on the application of Convention No. 142, the emphasis placed on the development of a system of vocational training which is coordinated with prospective employment opportunities. The Committee requests the Government to continue to supply detailed information on the results achieved in each of these fields. With reference to its previous requests, it would be grateful if the Government would describe the manner in which representatives of the persons affected are consulted concerning employment policies, in accordance with Article 3 of the Convention. It would also be grateful if the Government would supply the relevant extracts of the VIIIth Plan (1992-96) (point VI of the report form).

United Kingdom (ratification: 1966)

1. The Committee took note of the Government's report containing detailed information on developments during the period ending June 1992, and replying to its previous observation. It also notes a communication from the Trades Union Congress (TUC), dated 23 December 1992, concerning the application of the Convention. The Committee notes the Government's indication that it would respond to the comments made by the TUC in due course.

2. The Committee notes that the deterioration in the employment situation on which it commented in its previous observation was even more marked during the period under consideration. The recession in

economic activity, which has proved to be deeper and more protracted than anticipated, has caused the loss of more than a million jobs in Great Britain and a rapid increase in the unemployment rate which, according to the Government, rose from 5.5 per cent to 9.4 per cent between June 1990 and March 1992. In Northern Ireland, employment dropped by 2.3 per cent and unemployment rose by 4.8 per cent, reaching 14.3 per cent in June 1992. The OECD reports a standardized unemployment rate of 9.7 per cent in June 1992, and indicates that long-term unemployment is moving towards its high level of 1988 and that the contraction of employment has affected all sectors and all regions of the country, including those which were hitherto the least affected. The TUC confirms this. The TUC also considers that the official figures for unemployment understate its real extent, in particular owing to the narrow restrictions on unemployment insurance.

3. In the TUC's view, the high and rising unemployment reflects the failure of a policy which relies solely on the operation of market forces and disregards the obligations under the Convention. For the TUC, the reduction of unemployment and the restoration of full employment are paramount objectives. The Government, for its part, continues to believe that the best means of promoting employment growth is to create the right economic and financial conditions for enterprises to flourish and to provide everyone with the possibility of obtaining economically viable employment. It mentions in this connection the reduction of burdens on business, the reform of the tax system and the significant progress made in reducing inflation which should reinforce the competitive position of British enterprises in the international market and lead to the expansion of employment. The Government recognizes, however, that unemployment may continue to rise even after economic growth has resumed.

4. The Government also believes that the considerable efforts and resources devoted to assisting the unemployed to find work reflect its concern at the rise in unemployment and its commitment to the principles of the Convention. The Employment Service provides the unemployed with a recently completed package of services to help them keep in touch with the labour market and avail themselves of employment opportunities. With regard to the abolition of the community programme on which the Committee commented in its previous observation, the Government indicates that it was replaced in October 1991 by a new temporary employment programme, Employment Action. The Government also reports that it is increasing financial resources for training for employment. The Committee also notes that far-reaching structural reforms are being implemented to ensure that education and training systems are better matched to job prospects. In this connection, it refers the Government to its comments on the application of Convention No. 142. More generally, the Committee would be grateful if in its next report the Government would supplement the information on the objectives and scope of each of the labour market policy programmes with an evaluation of the results they have made possible in terms of the effective and lasting integration of the programmes' participants into employment.

5. With reference to Article 2 of the Convention, which lays down the obligation to "decide on and keep under review, within the framework of a coordinated economic and social policy", the measures

to be adopted in order to attain the objectives of full, productive and freely chosen employment, the Committee notes the substantial increase in public expenditure on employment policy measures as a component of the Government's growth strategy. None the less, the strategy is still based on macroeconomic policies which give priority to curbing inflation, even at the risk of increasing unemployment, as is pointed out by the TUC which quotes the Chancellor of the Exchequer in this respect. The Committee hopes that the results obtained in fighting inflation, lowering interest rates, and reinforcing economic competitiveness, referred to in a statement of 21 January 1993 by the Employment Secretary communicated by the Government, will ensure that the employment policy measures are successful and contribute effectively to improving the employment situation which is still a matter of concern in the short term, according to the forecast of both the OECD and the Government.

6. The Committee remains deeply concerned at the serious difficulties encountered in establishing the tripartite consultations on employment policy measures required by Article 3. In this connection, the TUC states that tripartite dialogue about monetary policy or collective dismissals, for example, has been refused; it particularly deplores the abolition of the National Economic Development Council (NEDC) which was the only remaining tripartite body in which issues of employment policy could be pursued. The TUC stresses that the confrontational approach has not remedied the long-standing national economic weaknesses, and considers that consultation of the social partners would demonstrate the Government's determination to pursue the objectives of the Convention. In a spirit of social partnership, it is committed to finding ways of achieving consensus on employment policy. The Committee also notes the Government's general assurances concerning the consultation of employers' and workers' organizations, particularly in the area of training. The Government also indicates that it is conducting consultations on a series of complex technical subjects, but it is not clear whether such consultations effectively meet the requirements of Article 3 in terms of their content and the persons involved. The Committee cannot overstress the importance of giving effect to this essential Article of the Convention which provides that the representatives of persons affected, and in particular the representatives of employers and workers, must be consulted on employment policy matters "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies". It trusts that the Government will shortly be able to report positive developments in this respect. With regard to the specific question of the effective consultation procedures to be pursued in preparing reports on the application of the Convention, the Committee refers the Government to its observation under Convention No. 144.

Venezuela (ratification: 1982)

With reference to its previous comments, the Committee notes the detailed information contained in the Government's report. The

Government refers to the results achieved through the structural adjustment measures which have been applied since 1989 and have made it possible to re-establish a macroeconomic balance and attain sustained growth of production. The Governments states in its report that a high proportion of workers in the informal sector of the economy do not enjoy the desirable working conditions of stability and an adequate income, that the unemployment rate remains at a high level, and that there is pressure for greater flexibility and deregulation of the labour market. The Committee notes that the Organic Labour Act of 1990 states that everybody has the right to work (section 24) and that the State shall make every effort to create and encourage conditions favourable to raising the level of employment to the greatest possible extent (section 25). As it has been doing for several years, the Committee proposes to continue the dialogue by directly requesting the Government to supply information on various aspects of the impact on employment of the measures adopted under structural adjustment programmes, the revision of these measures within the context of a coordinated social and economic policy, and the consultations which have been held with representatives of the persons affected concerning the employment policy (Articles 1, 2 and 3 of the Convention).

Zambia (ratification: 1979)

1. Further to its previous observation, the Committee took note of the Government's report, which contains brief indications in reply to the request which had been addressed to it directly.

2. The Government has stated that the Fourth National Development Plan 1989-93 has been revised. The Committee notes however that the report does not include the required information on the employment objectives set at this time. It also notes that the report mentions measures to reduce the number of personnel employed in the public sector. The report also indicates that privatization measures should, in the end, favour the creation of jobs which continue for the moment to be impeded by such factors as the weight of external debt, the lack of foreign currency and the devaluation of the national currency. The Committee would be grateful if the Government would indicate in its next report how account is taken, when adopting global development policy measures and in particular adjustment measures, of the effect of these measures on employment (Article 1, paragraph 3, of the Convention). It recalls that under Article 2 the measures to be taken in order to attain employment objectives should be placed "within the framework of a coordinated economic and social policy".

3. The Committee notes with concern that the Government has reported the negative impact of the unfavourable economic situation on youth training programmes, and the reduction of public spending on education in a context in which the rapid growth of the economically active population results in the growth of unemployment for urban youth. It hopes that the Government will soon report that measures have been taken to coordinate policies for education and training with prospective employment opportunities, in order to ensure that young

persons have access to an appropriate job after they have completed school and been trained, and to build a workforce with the necessary qualifications for the implementation of the economic policy. Some suggestions concerning education and training related to youth employment, which the Government may consider to be appropriate, may be found in Part III of the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169).

4. The Committee notes that the report does not contain the information requested on the effect given to Article 3. It trusts that the Government will indicate in its next report how the representatives of the persons affected by the measures to be taken, in particular representatives of employers and workers, but also representatives of other sectors of the economically active population such as persons working in the rural and informal sectors, are consulted on employment policy and take part in its implementation.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Barbados, Belarus, Cameroon, Djibouti, Ecuador, Guinea, Islamic Republic of Iran, Iraq, Jamaica, Jordan, Lebanon, Libyan Arab Jamahiriya, Madagascar, Mauritania, Nicaragua, Papua New Guinea, Paraguay, Russian Federation, Senegal, Suriname, Thailand, Ukraine, Venezuela.

Convention No. 123: Minimum Age (Underground Work), 1965

Nigeria (ratification: 1974)

Referring to comments made for a number of years, the Committee has requested the Government to indicate measures taken to give effect to the Convention, under which the employer shall make available to the workers' representatives, at their request, lists of the persons who are employed on work underground and who are less than two years older than the minimum age specified by the Government (i.e. persons under 18 years in Nigeria). The lists shall contain the dates of birth of such persons and the dates at which they were employed or worked underground in the undertaking for the first time. It expresses the hope that the Government will report on any measures taken in the near future.

Convention No. 124: Medical Examination of Young Persons (Underground Work), 1965

Requests regarding certain points are being addressed directly to the following States: Bolivia, Guatemala, Malta.

Convention No. 125: Fishermen's Competency Certificates, 1966

Sierra Leone (ratification: 1967)

The Committee recalls its earlier comments where it had noted the Government's statement that in Sierra Leone the fishing industry is carried on mostly by vessels of less than 25 GRT, which are not covered by the Convention: in so far as there may be larger vessels to which the Convention applies, efforts were being made to obtain information from the responsible authorities. It also recalls that under section 57(n) of the Fisheries Management and Development Bill, the Minister would have the power to prescribe qualifications for fishing vessels' manning and thus to draft regulations to apply the Convention. The Committee now notes from the Government's report that consultations will be renewed with the Ministry of Agriculture and Fisheries in this respect. It hopes the next report will include full details.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Belgium, Djibouti, France, Germany, Senegal.

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Requests regarding certain points are being addressed directly to Denmark, France, Germany, Greece, Sierra Leone, United Kingdom.

Information supplied by Belgium and Netherlands in answer to a direct request has been noted by the Committee.

Convention No. 127: Maximum Weight, 1967

Madagascar (ratification: 1971)

The Committee notes with regret that the Government's report has not been received. It also notes that the Government representative's statement at the Conference Committee of 1992 that it was not possible to communicate information on the application of the Convention. Noting the concerns expressed by the Conference Committee concerning the lack of information on the application of the Convention and the importance placed by the Committee on this question, the Committee must repeat its previous observation, which read as follows:

> In the comments that it has been making for a number of years, the Committee notes that measures have not yet been taken to limit the weight of loads that may be transported by adult male workers.
>
> Even before the adoption of the Labour Code in 1975, the Government announced in its reports that texts to apply the Code

would include a text to give effect to this Convention. In a report received in 1983, the Government confirmed this undertaking, although it pointed out that factories manufacturing jute and plastic sacks for rice, flour, etc., now respected the standard of 50 kg, and that the old sacks of 70 or 75 kg were disappearing since they were no longer being manufactured in Madagascar. In its report for the period ending 30 June 1986, the Government indicated that the above information concerning the current standardization of sacks manufactured locally remained valid and that this practice would be laid down in regulations.

However, the Government's last report, which was received in 1989, and the two letters signed by the Minister of the Civil Service, Labour and Labour Legislation in 1988, which were attached to the report, show that, in practice, factories, traders, transporters and farmers use sacks of 90 kg, 75 kg or 70 kg, which are generally manufactured locally, even though certain enterprises which are the principle manufacturers of these articles currently respect the standard of 50 kg. Consequently, the use of sacks that are in conformity with the requirements of international standards would, in the opinion of the Government, give rise to problems at the level of manufacture and consumption and would create difficulties as regards production costs and prices for manufacturers, users, producers and farmers. In a letter to the social partners in November 1988, the Minister invited them to recommend production units, "in order to avoid the harmful effects of the immediate application of the Convention in national law and so as not to be in opposition with the country's undertakings on the international level", to manufacture, by stages, sacks of 55 kg or 65 kg and to launch them progressively, as they are produced, onto the market.

The Committee recalls that by virtue of Article 3 of the Convention, no worker shall be required or permitted to engage in the manual transport of a load which, by reason of its weight, is likely to jeopardize his health or safety. This rule does not provide for any exceptions on the grounds of production costs or prices or for any other reason. It is more than 20 years since Madagascar has ratified the Convention. For several years, the Government has been undertaking to lay down in regulations the current practice adopted by the principle manufacturers of sacks which respect the standard of 50 kg. In these circumstances, its letter recommending the production of sacks of up to 65 kg constitutes a serious retrogression. The Committee trusts that the Government will re-examine its position and that it will indicate in the near future the measures that have been taken to ensure that the Convention is applied to adult male workers.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, a request regarding certain points is being addressed directly to Lebanon.

Convention No. 128: Invalidity, Old-Age and Survivors' Benefits, 1967

Switzerland (ratification: 1977)

1. The Committee notes with interest the information supplied by the Government in its report. In particular, it notes with interest the entry into force on 1 January 1992 of the amendment to section 33(ter) of the Federal Old-Age and Survivors' Insurance Act, under which, if there is an annual increase of over 4 per cent in the Swiss consumer price index, the Government is no longer limited to adjusting ordinary old-age, survivors' and invalidity benefits only once every two years.

2. Part II (Invalidity benefit), Article 12 of the Convention (in conjunction with Article 32, paragraph 1(e)). In its previous comments, the Committee raised the question of the compatibility with the Convention of section 7 of the 1959 Federal Invalidity Insurance Act (LAI), under which cash benefits may be temporarily or permanently refused, reduced or withheld where the invalidity has been caused or aggravated by the serious misconduct of the insured person or his dependants. As the Committee has already pointed out, the suspension of benefits is authorized under Article 32(e) of the Convention only when the contingency has been caused by serious and wilful misconduct on the part of the person concerned.

In its reply, the Government indicates that it is planned to abolish the reduction of benefits in the event of serious negligence of the insured person in the Bill on the general part of Swiss social insurance law - which was drawn up by the Committee of the Council of States on the basis of a draft prepared by the Swiss Insurance Law Society and currently being examined. It adds, however, that the Federal Council has a number of priorities including the tenth review of the Federal Old-Age and Survivors' Insurance Act, the reviews of the Federal Sickness Insurance Act and the Federal Occupational Insurance Act and the examination of the relationship between the compulsory basic pension scheme and the compulsory occupational pension scheme. Accordingly, although the Federal Council generally approves the Bill drawn up by the Committee of the Council of States, it would like the review of the above-mentioned Acts to be completed before Parliament debates the new Bill. The Committee takes note of this information. In this connection, the Committee also notes the observations of the Swiss Federation of Trade Unions (USS) communicated to the Government on 12 February 1993. According to the USS, the Federal Council issued an opinion with reservations of the Bill and asked Parliament to suspend its work. While it is aware that the Government has priorities, the Committee none the less reiterates the hope that the Bill on the general part of social insurance law will be adopted shortly and that it will take full account of the above-mentioned provisions of the Convention, on which the Committee has been commenting for many years. It would be grateful if the Government would provide information in its next report on any developments in this respect.

3. Part VII (Miscellaneous provisions), Article 42 (in conjunction with Article 15, paragraph 3). In its previous reports, the Government indicated that the lowering of the age of retirement

for certain categories of workers would be examined by the Federal Committee responsible for the tenth review of old-age insurance. The Committee expressed the hope that, in the review, the retirement age of persons engaged in arduous or unhealthy work (currently 65 years for men) would be lowered, in accordance with the provisions of the Convention.

In its reply, the Government states that there have been no new developments during the period covered by the report. The USS, for its part, recalls that, as part of the tenth review of old-age insurance (AVS) currently in process in Parliament, the Committee of the National Council plans to raise women's retirement age to 64. The USS is against this amendment and demands that all questions relating to retirement age and the long-term financing of insurance, particularly in view of demographic trends, be dealt with in the eleventh review of the AVS. In addition, it considers that any reductions in benefits that may be introduced in the event of early retirement would be in breach of Articles 17 and 18 of the Convention. The Committee takes note of this information. Since there has been no change in the situation, the Committee can but reiterate the hope that the Government's next report will contain information, in accordance with the provisions of Article 42, paragraph 2, of the Convention, on progress made towards lowering the age of retirement for certain categories of workers engaged in arduous or unhealthy work. It also reiterates the hope that any reductions of benefits in the event of early retirement will not affect the application of Articles 17 and 18 of the Convention in respect of this category of workers.

4. Part V (Standards to be complied with by periodical payments) in conjunction with Part III (Old-age benefit). The Committee notes the information provided by the Government in reply to its previous comments on old-age benefit rates. It notes in particular the statistical information which also takes into account the benefits granted under the Federal Occupational Insurance Act (LPP). Furthermore, the Committee notes with interest the Government's statement that measures have been taken which, for part of the population, will improve the relationship between incomes and benefits, such as the new benefit formula to take effect from 1 January 1993. The Committee would be grateful if in its future reports the Government would continue to provide information, including statistics, on any developments in this respect and on the result of the studies which, according to the Government, are to achieve fully the objective laid down in article 34 quater of the Federal Constitution.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Ecuador, Germany, Sweden, Venezuela.

Information supplied by Norway in answer to a direct request has been noted by the Committee.

Convention No. 129: Labour Inspection (Agriculture), 1969

Bolivia (ratification: 1977)

The Committee refers to its observation under Convention No. 81. It asks the Government to indicate the additional measures taken to enable the general labour inspectorate to carry out adequately its functions in agriculture. In this respect, the Government will undoubtedly pay particular attention to increasing inspectors' means of transport and to raising their awareness of the particular characteristics and risks inherent in agricultural activity as well as to the need to ensure the collaboration with employers and workers or their organizations.

France (ratification: 1972)

The Committee notes that the report has not been received. It refers to its previous comments on the application of this Convention, and its observation concerning Convention No. 81. It also notes the new comments received from the National Union of Labour Directors of the Ministry of Agriculture and the CGT Federation of Public Services. The Committee hopes that the Government will not fail to transmit a detailed report under article 22 of the Constitution for examination at its next session and that all the information requested and described in greater detail in its direct request will be supplied.

Malawi (ratification: 1971)

Article 19 of the Convention. Further to its previous comments, the Committee notes with interest that the Workers' Compensation Act includes provision in section 24 for the notification of occupational accidents and diseases. It would be glad if the Government would clarify whether, in the light of section 2(a), this applies to persons whose employment is "of a casual nature". It hopes the Government will also provide a copy of the new rules involving inspectors in on-the-spot inquiries into serious cases.

Articles 14, 15, 21, 26 and 27. The Committee's comments under Convention No. 81 apply.

Uruguay (ratification: 1973)

The Committee refers to its comments under Convention No. 81.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Costa Rica, France, Germany, Guyana, Madagascar, Morocco.

Convention No. 130: Medical Care and Sickness Benefits, 1969

Requests regarding certain points are being addressed directly to the following States: Ecuador, Sweden, Uruguay.

Convention No. 131: Minimum Wage Fixing, 1970

Bolivia (ratification: 1977)

In the previous comments, the Committee referred to the report of the Committee set up to examine the representation made by the Confederation of Private Employers of Bolivia under article 24 of the ILO Constitution (Official Bulletin, Vol. LXVIII, 1985, Series B, special supplement 1/1985). It noted the Government's reference to section 62 of Supreme Decree No. 21060 of 30 August 1985 which guarantees the fixing of wages through collective bargaining and pointed out that the free determination of wages by negotiation between employers and workers would not appear to constitute an adequate minimum wage-fixing system in the meaning of the Convention, in so far as it does not cover all the groups of wage-earners whose terms of employment are such that coverage would be appropriate.

The Committee notes that the Government repeats its reference to Supreme Decree No. 21060, and states in reply to the previous comments that Supreme Decree No. 19462 of 15 March 1983 was repealed in virtue of section 170 of Supreme Decree No. 21060 and that the National Wages Council was not consulted, since Supreme Decree No. 11706 of 16 August 1974, which set up this Council, was also of transitional nature. The Committee also notes Decree No. 23093 of 16 March 1992, section 2 of which fixes a new rate of the national minimum wage applicable to both public and private sectors.

The Committee recalls that the conclusion of the Committee set up to examine the above-mentioned representation, which was adopted by the Governing Body, was that measures should be taken by the Government to ensure consultation with both employers' and workers' organizations in connection with the establishment, operation and modification of the minimum wage-fixing machinery (Article 4, paragraph 2, of the Convention), as well as the participation of these organizations in the operation of such machinery (Article 4, paragraph 3). The Committee requests the Government to communicate information on any measures taken or envisaged for such consultation and participation.

The Committee is also addressing a direct request to the Government regarding certain points.

Ecuador (ratification: 1970)

The Committee notes the information supplied by the Ecuadorian Confederation of Free Trade Unions (CEOSL) concerning the application of Article 2, paragraph 1, of the Convention. By virtue of section 29 of Act No. 133 to revise the Labour Code, which amends section 168 of the Labour Code, workers can be recruited under an apprenticeship contract, of which the duration may not be more than six months, at remuneration which cannot be less than 75 per cent of the minimum living wage. The number of persons recruited under this form of contract cannot exceed 10 per cent of the number of workers in the enterprise. In the event of the continuation of the employment relationship at the end of the six-month period, the contract is converted into a contract without limit of time. The objective of this apprenticeship contract is to learn a trade or the special characteristics of a job which is manual, technical or which requires a skill.

The Ecuadorian Confederation of Free Trade Unions considers that this amendment to section 168 of the Labour Code creates a new category of workers who may be called "industrial apprentices" who are paid remuneration which is lower than the minimum wage.

The Committee notes that the Government has not made observations on these comments, as it was invited to do in April 1992.

The Committee refers to paragraphs 169 to 176 of its 1992 General Survey on Minimum Wages, in which it indicates that the fixing of minimum wages as a function of certain criteria such as age must respect general principles, and particularly those contained in the Preamble of the Constitution of the ILO, which include equal remuneration for work of equal value. Furthermore, the Committee refers to the comments made in paragraph 177 of the above General Survey, according to which the concept of apprenticeship refers to persons who, irrespective of their age, are being trained at their place of work.

The Committee requests the Government to indicate the measures which have been adopted to ensure that the persons employed in enterprises under an apprenticeship contract by virtue of section 168 of the Labour Code, as amended, and whose remuneration must not be less than 75 per cent of the minimum living wage, undergo vocational training at their place of work. It also requests the Government to supply information on the manner in which the representative organizations of employers and of workers were fully consulted with regard to the changes made to the system of fixing minimum wages.

The Committee is also addressing a direct request to the Government on a number of points.

Netherlands (ratification: 1973)

The Committee notes the information supplied by the Government in its report, in particular, the Act of 14 November 1991, introducing a change in the system of fixing minimum wage (1991, No. 624).

The Committee recalls that it requested in the previous comments, in connection with the comments made by the Federation of Christian Trade Unions (CNV), the Government to indicate the extent to which and the manner in which account had been taken of the factors mentioned in Article 3(a) of the Convention.

The Government indicates in the report that after the freeze in 1988 and 1989, the minimum wages were increased in 1990 and 1991 as much as wages in the market sector. It also states that under the above Act a new system was introduced as of 1 January 1992, under which the actual raise of the minimum wage is based on the estimated average wage increase in the market sector and the government sector in the year in question (section 14(1) and (2) of the Minimum Wage and Minimum Leave Allowance Act, No. 657 of 1968, as amended by the above Act). The new Act, however, provides the possibility for the Government of not executing the automatic link under two conditions: the average wage rise being considered too high; and the growth of social welfare benefits resulting in the tax increase (section 14(5)). In such a case, the Government must first consult the Social and Economic Council (section 14(8)). The Government considers that the above two conditions are brought together in the ratio between the number of people receiving a social benefit ("i") and the number of people with a labour income ("a") that is called the i/a ratio, which has recently been 86 per cent. It further states that if the i/a ratio exceeds this 86 per cent, the automatic adjustment of the minimum wage can be cancelled.

The Committee notes these indications. Noting that the concept of the i/a ratio is not provided in the above-mentioned new Act, it requests the Government to indicate whether the employers' and workers' organizations were consulted in introducing this concept, and to supply any legislative or other texts that provide for the use of the i/a ratio in determining the application of section 14(5) mentioned above. The Committee also requests the Government to continue supplying information on the actual adjustment of the minimum wage under the new system.

Portugal (ratification: 1983)

Article 1, paragraph 2, of the Convention. With reference to the previous comments, the Committee notes with satisfaction that sections 5 and 6 (as amended) of Legislative Decree No. 69-A/87 of 9 February 1987, which provided for the possible exceptions to the application of the minimum wage in view of the number of workers in the undertaking and on the grounds of the increase of the employers' burden, were repealed, respectively, by Legislative Decree No. 14-B/91 of 9 January 1991 and by Legislative Decree No. 41/90 of 7 February 1990.

The Committee also notes with interest that Legislative Decree No. 440/91 of 14 November was adopted and provides for regulations concerning homework, including the aspect of wage fixation. It notes that the Confederation of Portuguese Industry (CIP) refers, in its comments communicated with the Government's report, in particular, to the publication of this legislative decree. The Committee is addressing a direct request to the Government concerning this legislative decree and certain other points.

Spain (ratification: 1971)

The Committee notes the information supplied with the Government's report, and in particular, the observations made by the General Union of Workers (UGT).

The UGT points out (1) that the consultation before fixing the Interprofessional Minimum Wage (SMI) is confined to only one meeting per year with the workers' organizations, which is not enough for a detailed analysis of different elements, and which therefore results in the loss of purchasing power of the SMI; (2) that the differentiation of the minimum wage rates for the workers of 18 years and over and for those of less than 18 years is resulting in discrimination since neither the work performed nor the working hours are different; (3) that under the contract for training ("Contrato para la formación" under section 11(2) of the Workers' Statute (Act No. 8 of 10 March 1980, as amended by Act No. 32 of 2 August 1984), many young workers (261,916 contracts of this type in 1991) receive wages at less than the minimum rate because the employers can reduce the wages up to a half in relation to the time spent for teaching; and (4) that the provision of section 27(1) of the Workers' Statute concerning half-yearly revision of the SMI has not been implemented.

Regarding points (1) and (4) above, the Government indicates that the SMI has been revised annually after consultation with the representative organizations of the employers and the workers. It states that for the purpose of such consultation, the Government sends sufficient informative documentation and organizes meetings, and that workers' organizations often send back their proposal in writing, in which case the Government holds a last meeting to give the reply before the decision on the new SMI. The Government also indicates that the annual increase rates of the SMI were 6.0 per cent in 1989, 7.1 per cent in 1990 and 6.5 per cent in 1991, while the Consumer Price Index (CPI) in the real term increased 6.9 per cent, 6.5 per cent and 5.5 per cent respectively in the same period.

The Committee notes these indications. Regarding the periodicity of the adjustment, the Committee recalls that the tripartite committee set up to examine the representation made by the Trade Union Confederation of Workers' Committees (CC.OO.) under article 24 of the ILO Constitution concerning the application of section 27 indicated that "taking account of the information available, the Government has not failed to comply with the provisions of Article 4, paragraph 1, of the Convention in maintaining machinery whereby 'minimum wages can be adjusted from time to time'" (GB.243/6/22, Geneva, June 1989). The Committee further recalls that the Convention does not specify the frequency of wage adjustment. A given frequency of the minimum wage adjustment is in accordance with the provisions of the Convention insofar as it responds to the principal objective of the Convention, i.e. to ensure to workers a minimum wage that will provide a satisfactory standard of living for them and their families (paragraph 428 of the General Survey of 1992 on the Minimum Wages). In this connection, the Committee requests the Government to indicate the procedure followed under section 27(1) of the Workers' Statute which, however, provides for the half-yearly revision of the SMI in the case where the CPI forecasts did not prove correct, in order to verify the correctness of the CPI forecast and to determine whether the half-yearly revision of the SMI is necessary. It asks the Government to state whether the employers' and workers' organizations are consulted in this regard.

As to point (2) of the UGT's comments, the Committee notes the Government's indication that since 1990, the SMI has been fixed for the workers of 18 years of age or older and for those of less than 18, while previously there were three categories, i.e. up to 16 years, 17 years of age and 18 years and over. It also notes the court decision dated 7 March 1984 (BOE 3 of April 1984), in particular, point 10 of II. Legal Grounds, in which it was confirmed that the principle of equal wage for equal work also applies to the workers of different age. The Committee requests the Government to indicate concrete measures taken or contemplated to ensure that workers of less than 18 years can, as stated in the Government's report, receive equal wages if they perform work equal to that of the adults.

The Committee notes, regarding point (3) of the UGT's comments, that the Workers' Statute provides in section 11(2) for the possibility of a training work contract for workers of more than 16 and less than 20 years of age and, without the upper age limit, for disabled workers. The Committee requests the Government to supply information on the application in practice of these provisions, and, in particular, on measures taken or contemplated to prevent the abatement of the minimum wages.

Sri Lanka (ratification: 1975)

Further to its previous comments, the Committee notes the Government's report.

In its earlier comments, the Committee noted the observations made by the United Plantation Workers' Union, the Democratic Workers' Congress, the Landa Jathika Estate Workers' Union and the Ceylon Workers' Congress concerning the application of Article 4 of the Convention in the plantations sector (in particular in the tea-growing and manufacturing trade, rubber-growing and manufacturing trade and coconut growing and manufacturing trade). It noted the Government's indication of the necessity for an elaborate analysis of wage structure in the plantations sector, and hoped that, following the analysis, the minimum wage fixing machinery would be maintained and implemented in the plantations sector.

The Committee notes the Government's indication in the report that the wages of the workers in the plantation sector are determined by the Wages Board, after consultation with the employers' and workers' organizations, on the basis of the basic minimum wages with added allowance based on the cost of living index.

The Committee requests the Government to indicate whether the above-mentioned analysis of the wage structure in the plantations sector has actually been undertaken and, if so, whether the results have been taken into consideration in the minimum wage fixing. It also requests the Government to communicate a copy of the Wages Board decisions fixing the minimum wages in the plantation sector.

The Committee is also addressing a direct request to the Government concerning certain other points.

Uruguay (ratification: 1977)

Further to its previous comments, the Committee notes the Government's report as well as the discussion that took place at the Conference Committee in June 1991.

In its previous comments the Committee requested the Government to supply information on the measures taken or envisaged: (a) to take into consideration the elements referred to in Article 3(a) of the Convention; (b) to ensure the consultations, in the fixing or reviewing of minimum wages, through wage councils or otherwise; (c) to ensure consultations with workers concerned in establishing the minimum wages of rural workers; and (d) as regards the fixing of the national minimum wage, to ensure consultations and to take into account the elements referred to in Article 3.

A Government representative at the Conference Committee in June 1991 stated that nearly 100 per cent of private sector workers had collective agreements, including a mechanism for adjusting wages, that administrative decisions respecting wages constitute an exception in the absence of collective agreements, and that, although there was no impediment to fixing the minimum wage of rural workers by collective agreement, the dispersion of agricultural workers makes organizing and negotiating difficult.

In its report, the Government indicates that wages are fixed in the system of wages councils under Act No. 10449 which establishes a structure of tripartite negotiations, and that the Executive Power transforms their findings into decrees under Legislative Decree No. 14791. It also indicates that the national minimum wage fixed by the Executive Power applies to practically no workers, because minimum wages fixed for each sector or category of workers are much higher than that. Several Decrees dated between 1991 and 1992 fixing the amount of the national minimum wage are attached to the Government's report.

The Committee notes the above information. It requests the Government to provide further information on the functioning in practice of wages councils under Act No. 10449 and on minimum wages fixed by branches of activity and categories of workers, including, for example, number of workers covered and texts of wages councils decisions respecting minimum wages, whether published in the form of Decree or not. The Committee also requests the Government to indicate measures taken in order that such elements as the needs of workers and their families (Article 3(a)) are taken into consideration in determining the level of minimum wages.

As regards the national minimum wage, the Committee has already noted that it applies to marginal sectors and that it is fixed unilaterally by the Government. The Committee considers that a system of minimum wages, which covers any group of wage earners whose terms of employment are such that coverage would be appropriate, falls within the scope of the Convention, even if the number of persons covered by such a system is small. It therefore hopes that the Government will take measures to consult representatives of employers and workers concerned when fixing the national minimum wage, and to ensure that the elements set out in Article 3 are taken into account.

The Committee notes the Government's repeated indication that the minimum wage of rural workers is unilaterally fixed by the Government because such workers are not sufficiently organized. It recalls that Article 4, paragraph 2, requires consultation with representatives of employers and workers concerned, even if no organizations exist. The Committee therefore again asks the Government, as it already did in earlier comments, to consider adopting measures to ensure that the workers' and employers' representatives are consulted when the minimum wage of rural workers is fixed.

The Committee also requests the Government to communicate copies of any decrees fixing the minimum wages for domestic workers and for rural workers adopted since the Decrees of 1990 noted in the previous comments.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Australia, Bolivia, Brazil, Burkina Faso, Costa Rica, Ecuador, Guyana, Iraq, Lebanon, Libyan Arab Jamahiriya, Mexico, Nepal, Portugal, Romania, Sri Lanka, Swaziland, Syrian Arab Republic, United Republic of Tanzania, Yemen, Zambia.

Information supplied by Malta in answer to a direct request has been noted by the Committee.

Convention No. 132: Holidays with Pay (Revised), 1970

Iraq (ratification: 1974)

The Committee notes that the Government's report has not been received. It is again raising certain questions in relation to Article 6, paragraph 1; Article 8, paragraph 2; Article 9, paragraph 1; and Article 11 of the Convention in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Burkina Faso, Iraq, Madagascar, Malta.

Convention No. 133: Accommodation of Crews (Supplementary Provisions), 1970

Requests regarding certain points are being addressed directly to Finland, Greece, Netherlands, New Zealand, Norway, United Kingdom, Uruguay.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

Guinea (ratification: 1977)

The Committee notes the Government's latest report.

It again notes that no specific instrument for the prevention of occupational accidents of seafarers, giving effect to the provisions of the Convention, has been adopted, be it a statutory instrument, a code of practice or any other appropriate means.

In its report for the period ending 30 June 1989, the Government had indicated that appropriate regulations were being prepared and would be reviewed with the technical assistance of the ILO to ensure their compliance with the provisions of the Convention. In its latest report the Government indicates that draft specific provisions for seafarers are still being examined by the specialized technical services and that the merchant marine has recently finalized a draft maritime code.

The Committee takes due note of these indications. It trusts that the Government will do what is possible to ensure that provisions giving effect to the Convention will be adopted in the very near future and that it will supply copies thereof as soon as they have been adopted.

Italy (ratification: 1981)

1. Article 4, paragraph 3(h), of the Convention. With reference to its previous comments, the Committee notes with satisfaction that standards on intermediary containers intended for the maritime transport of dangerous cargo were approved by the Ministerial Decree of 14 May 1990.

2. The Committee is continuing to examine a certain number of other points relating to the application of Articles 2 to 5, 6, paragraph 4; 8 and 9 in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, Egypt, Finland, Italy, Mexico, New Zealand, Norway, Russian Federation, Spain, United Republic of Tanzania, Uruguay.

Convention No. 135: Workers' Representatives, 1971

Costa Rica (ratification: 1977)

The Committee notes the Government's report.

The Committee notes with interest that a Central Labour Council made up of government, employers' and workers' representatives has been established to achieve a consensus on major social and labour questions, and that it has approved a national agenda which includes items concerning freedom of association.

The Committee recalls that for many years it has been drawing the Government's attention to the fact that, in Costa Rica, the protection of workers' representatives against dismissals or other acts which are prejudicial to their functions or trade union activities leaves much to be desired, as no relevant legislation exists and protection clauses are not systematically included in collective agreements.

The Committee notes from the Government's report that the draft of the comprehensive revision of the Labour Code has not yet been adopted and that it is being examined by a special government committee prior to being submitted to the Legislative Assembly for final approval.

The Committee hopes that the draft Code which the Government has referred to in its reports since 1981 and, in particular, the Bill to guarantee trade union rights will be adopted shortly and asks the Government to inform it when this draft legislation is adopted and to provide copies, and to indicate any other legislative measures that have been taken to ensure that full effect is given to the Convention.

Sweden (ratification: 1972)

The Committee takes note of the information contained in the Government's report.

Further to its previous comments, the Committee notes with satisfaction that Act No. 1039 of 1990 (which came into force on 1 January 1991) to amend Act No. 358 of 1974 on the Position of the Trade Union Representative at the Workplace, grants regional trade union representatives, in certain circumstances, the right to gain admittance to workplaces where they themselves are not employed and to carry out trade union activities there.

United Republic of Tanzania (ratification: 1983)

The Committee notes the Government's report as well as the adoption of the Organization of Tanzanian Trade Unions (OTTU) Act No. 6 of 1991 which repeals and replaces the JUWATA Act No. 24 of 1979. The Committee notes with regret that this Act establishes OTTU as the sole trade union body representative of all employees in the United Republic (section 4) and that it does not afford any protection or facilities to workers' representatives in the undertaking against any act prejudicial to them, contrary to Articles 1 and 2 of the Convention.

The Committee considers moreover that this legislation does not permit the election of representatives outside the trade union structures established by law. The Committee takes note, however, of the Government's statement according to which section 4 of the OTTU Act has come under criticism by workers wanting to form their own unions independent of OTTU and OTTU leadership. The Government states furthermore that the OTTU is a caretaker body for the current transition towards establishing a freely elected and constituted body of workers and that section 4 of the Act will be reviewed once the current elections from branch level to national level are completed.

The Committee trusts that the Government will take necessary measures to bring its legislation into conformity with the Convention and requests the Government to keep it informed of any progress made in this respect.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Austria, Brazil, Costa Rica, Iraq, Jordan, Yemen.

Information supplied by Hungary and Romania in answer to a direct request has been noted by the Committee.

Convention No. 136: Benzene, 1971

Côte d'Ivoire (ratification: 1972)

The Committee notes the Government's report which reproduces information from earlier reports but contains no reply to the Committee's previous observations.

In the comments it has been making since 1976, the Committee has noted that a number of provisions of the Convention are not applied by the legislation in force. Since 1984, the Government has referred to the text of a draft Decree which was approved by the the Health and Safety Advisory Committee and was to be adopted in order to bring Decree No. 67-321 of 21 July 1967 into conformity with all the provisions of the Convention. In its most recent report, the Government makes no mention of the draft Decree and merely refers to the legislation which, as the Committee has already noted, does not fully meet the requirements of the Convention. The Committee trusts that the Government will shortly take the necessary measures, through adoption of the draft Decree or otherwise, to ensure that effect is given to the following Articles of the Convention, and that the Government will indicate the action taken in this regard.

Articles 1 and 4 of the Convention. In earlier comments, the Committee noted that section 4 D 453 of Decree No. 67-321 of 21 July 1967 prohibited the use of benzene as a solvent, but defined products containing benzene for this use in terms of the level of distillation. The Committee recalled that, under Article 1 of the Convention, its provisions are to be applied to benzene and products the benzene content of which exceeds 1 per cent by volume. The Committee expressed the hope that the necessary measures would be taken to ensure that the prohibition of the use of benzene or products containing benzene as a solvent, established in section 4 D 453, would be amended so as to cover the use as a solvent of products containing more than 1 per cent by volume of benzene. The Government is asked to indicate the progress made in this respect.

Article 2, paragraph 1. Measures need to be taken, in accordance with this Article of the Convention, to ensure that the use of benzene or products containing benzene will be replaced by harmless or less harmful substitute products whenever such products are available.

Article 6, paragraph 2. Measures need to be taken, in accordance with this Article of the Convention, to ensure that the level of concentration of benzene vapour in the air does not exceed 80 mg/m^3.

Article 8, paragraph 1. The Committee notes from the Government's report that protective equipment, notably respiratory masks, must be provided to workers involved in painting work. The Committee would recall that this Article of the Convention calls for personal protective equipment to be provided for workers who may for special reasons be exposed to concentrations of benzene in the air of places of employment exceeding the maximum permissible level set forth in Article 6, paragraph 2, of the Convention. The Government is therefore requested to indicate the measures taken to ensure that workers in all types of activities involving exposure to benzene, who may be exposed to especially high levels of benzene, are provided with personal protective equipment and to indicate the manner in which the duration of exposure in such circumstances is limited as far as possible.

Article 11, paragraph 2. The Committee notes that the recommendation to doctors annexed to Part XVII, Chapter II, Title II, of the Labour Code provides that there is reason to consider young women under the age of 18 as unfit for work likely to cause benzene poisoning. The same recommendation is made for young men under 18, unless special medical authorization is given. The Committee notes from the Government's report that this recommendation is legally binding. The Committee would recall that Article 11 of the Convention provides that young persons under the age of 18 shall not be employed in work processes involving exposure to benzene, but that this prohibition need not apply to young persons undergoing education or training who are under adequate technical and medical supervision. The Government is requested to indicate the manner in which it is ensured that special medical authorization for young men under the age of 18 is only granted to those persons who are involved in work involving exposure to benzene for reasons of education and training and only where it can be ensured that the adequate technical and medical supervision is provided.

Morocco (ratification: 1974)

In observations it has been making since 1989, the Committee noted that the regulations part of the draft Labour Code contained provisions to give effect to certain provisions of the Convention on which it had been commenting since 1977. It noted, however, that the draft did not contain provisions to give effect to Article 3 of the Convention (consultation of the most representative employers' and workers' organizations concerning the granting of temporary exemptions by labour inspectors under section 502 of the draft regulations) or Article 8, paragraph 1 (adequate means of personal protection against the risk of absorbing benzene through the skin for workers who may have skin contact with liquid benzene or products containing benzene). The Committee notes the indication in the Government's latest report that the Ministry of Employment has recently drafted a Bill to take account of its comments. In its report, the Government indicates the measures envisaged in the Bill to ensure application of certain Articles of the Convention. The Government refers to a provision under which workers who may be exposed to benzene vapour shall be supplied with adequate means of personal protection, but does not indicate the measures taken or contemplated in respect of the points raised on Articles 3 and 8 of the Convention. The Committee once again expresses the hope that the legislation envisaged to give effect to the Convention will be amended to take account of its comments and that it will be adopted in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France, Greece, Guyana, Kuwait, Morocco, Nicaragua.

Convention No. 137: Dock Work, 1973

Spain (ratification: 1975)

1. In its earlier comments the Committee noted the observations of the Canary Islands Nationalist Autonomous Confederation (CANC), endorsed by the National Federation of Dockworkers, concerning the situation of workers enrolled in the Special Register of Dockworkers of La Luz and Las Palmas. It also noted the detailed explanations of the Government concerning the Special Register of the National Employment Institute (INEM). The Committee asked the Government to indicate whether, in the light of developments in the situation in the port of Las Palmas, it will be possible to guarantee to workers enrolled on the Special Register "minimum periods of employment or a minimum income, in a manner and to an extent depending on the economic and social situation of the country and port concerned", as required by Article 2, paragraph 2, of the Convention. The Committee observes that no new information has been supplied by the Government on this point. It therefore reiterates its hope that the Government will not fail to provide the information requested in its next report.

2. The Committee notes the observations of the Inter-Union Center of Galicia (CIG) concerning the situation of non-registered workers engaged on a casual basis by private stevedoring companies in the Galician ports of La Coruña and Vigo. The CIG states that wages and other conditions of work of this category of dockworkers are inferior to those of registered dockworkers employed by a state company.

3. The Government indicates in its reply to these observations that, during the period of restructuring, the Port Work Organization (OTP) continues to perform supervisory functions in regard to the implementation of the relevant national provisions, in accordance with section 15 of the Labour Ordinance of 1974, and reports to the competent authorities any defaults or shortcomings in their

implementation. It also makes reference to the Resolution of the General Directorate of Labour of 27 November 1980 on the performance of dockwork operations by private enterprises in the port of Vigo, according to which presumed contraventions are to be reported to the Labour Board of the Port of Vigo and to the Labour Delegation of the Council ("Xunta") of Galicia. The Government indicates, with reference to the Provincial Directorate of Pontevedra, that any information on presumed contraventions is communicated to the competent administrative bodies. It also supplies information on measures taken and contemplated with a view to ensuring that appropriate safety, health and vocational training provisions apply to dockworkers. As regards the situation in the port of La Coruña, the Government states that private stevedoring companies do not operate there.

4. The Committee would be grateful if the Government would provide in its next report information on the conditions of employment of dockworkers recruited on a casual basis by private stevedoring companies, indicating in particular whether minimum periods of employment or minimum income are assured to this category of workers, as required by Article 2, paragraph 2. Please also supply the text of the Resolution of 27 November 1980 referred to above. The Committee hopes that the Government will continue to supply information on measures taken to ensure that appropriate safety, health, welfare and vocational training provisions apply to dockworkers, as required by the report form under Article 6.

[The Government is asked to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Costa Rica, Egypt, Guyana, Iraq, Sweden, United Republic of Tanzania.

Convention No. 138: Minimum Age, 1973

Costa Rica (ratification: 1976)

The Committee notes the Government's report. It also notes that Costa Rica ratified, on 21 August 1990, the UN Convention on the Rights of the Child.

1. In its previous comments, the Committee noted that the provisions of the Labour Code apply to wage employment, with the exception of the prohibition on the work of children of less than 15 years of age set out in section 90, which applies to the exercise of a trade on the public thoroughfare or in public places, on their own account or on the account of a third person, or in theatres or similar establishments. It recalls that under Article 2 of the Convention no one under the age specified in the declaration annexed to the ratification shall be admitted to employment or work in any occupation, subject to the exceptions provided for in the Convention.

The Committee requests the Government to state the measures that have been taken or are envisaged to ensure that no one under the specified minimum age is admitted to employment or work in any occupation, including work performed on their own account.

2. In its previous comments, the Committee noted that under section 89 of the Labour Code work is prohibited by children under the age of 12 years and by children of school age who have not completed their schooling or whose work would not permit them to complete their compulsory instruction. For several years the Government has referred in its reports to a draft text to amend the Labour Code which would have brought the legislation into conformity with the Convention on this point by fixing the age for admission to employment or work, both wage employment and other work, at 15 years.

The Government refers in its report to the provisions of the Labour Code which is currently in force. The Committee notes that section 46 of the Labour Code provides that children under the age of majority, who are over 15 years of age, have the capacity to conclude a contract of employment. It also notes that under section 47 of the Labour Code, contracts respecting work by children aged between 12 and 15 years have to be concluded by their legal representative or his or her substitute.

The Committee points out that these provisions do not give effect to the Convention, for which the Government determined at the time of ratification a minimum age of 15 years. As a consequence, only children who have reached the age of 13 years could be admitted to employment to carry out light work, which, under certain conditions, is authorized in Article 7 of the Convention.

The Committee requests the Government to state the measures which have been taken to give effect to the Convention by establishing a general age of admission to employment of 15 years (Article 2) and by setting the age of 13 years for admission to light work which may be authorized under certain conditions which are intended to protect the children (Article 7).

3. The Committee referred previously to section 87 of the Labour Code under which it is absolutely prohibited to engage the services of children under 18 years of age to carry out unhealthy, arduous or dangerous work, which will be determined by a regulation which takes into account section 199 of the Code, which defines unhealthy and dangerous work.

The Committee notes that no regulation has been adopted under sections 87 or 199 of the Labour Code and that the Government does not refer to any provision of this kind covering non-wage employment.

The Committee requests the Government to indicate the measures which have been taken to determine the types of employment or work which, by their nature or the circumstances in which they are carried out, are likely to jeopardize the health, safety or morals of young persons under 18 years of age, in accordance with Article 3 of the Convention.

Dominica (ratification: 1983)

The Committee notes again with regret that for the third time the Government's report has not been received. It hopes that a report will be supplied for examination by the Committee at its next session and that it will contain full information on the matters raised in its previous comments, which the Committee raises once again in a request directly addressed to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Antigua and Barbuda, Dominica, Mauritius, Romania, Venezuela.

Information supplied by Greece in answer to a direct request has been noted by the Committee.

Convention No. 139: Occupational Cancer, 1974

Guyana (ratification: 1983)

The Commmittee notes with regret the indication in the Government's report that no progress has been made since its last report received in 1989.

1. In comments it has been making since 1988, the Committee noted that only ionizing radiations from medical and dental use had been subject to control, and that no other carcinogenic substance had been prohibited or made subject to control. However, the Government indicated in 1988 that the occupational health and safety sector of the Ministry of Labour was being restructured, that consultations were taking place on a repeal and re-enactment of the Factories Act and that with the completion of this exercise it was hoped that other areas of occupational exposure would be covered by control and supervision.

The Committee once again requests the Government to supply details concerning the restructuring, its effect on the application of the Convention, as well as developments concerning the repeal and re-enactment of the Factories Act.

In this connection, the Committee urges the Government to ensure that the necessary steps are taken in consultation with the most representative organizations of workers and employers concerned, as required by Article 6(a) of the Convention to ensure the application of the following provisions of the Convention: Article 1, paragraph 1 (determination of carcinogenic substances or agents to which occupational exposure is prohibited or made subject to authorization or control); Article 2 (the replacement of carcinogenic substances and agents by less harmful substances or agents, and the reduction to the minimum of the number of workers exposed and the level and duration of exposure); Article 3 (the protection of workers against the risks of exposure and establishment of an appropriate system of records); Article 4 (information to be provided to workers on the dangers involved and the measures to be taken); and Article 5 (medical examinations and biological and other tests and investigations for exposed workers).

The Committee once again expresses the hope that the Government will now report progress made in this regard.

2. In its previous comments, the Committee also had referred to additional measures to be taken in respect of ionizing radiations for medical and dental use to give effect to Article 1, paragraph 3 and Article 5 of the Convention. The Committee noted from the Government's report for 1989 that no progress had been made in these fields. It again expresses the hope that the Government will soon be in a position to report progress in applying the 1978 revised United Kingdom Code of Practice for the Protection of Persons against Ionising Radiations from Medical and Dental Use, and in ensuring that workers shall be provided with medical examinations during the period of their employment and thereafter as are necessary to evaluate their exposure and the state of their health in relation to the occupational hazards. On this point, the Committee would also refer the Government to its general observation for 1992 under this Convention.

Nicaragua (ratification: 1981)

In comments it has been making since 1984, the Committee noted that there were no specific laws or regulations to apply the provisions of the Convention. In 1987, the Government indicated that special efforts were being made to establish standards on the safety measures to be taken to prevent the risks of occupational cancer. In its latest report, the Government has made reference to difficulties faced by the country in the last 13 years which have hindered the implementation of national occupational safety and health programmes. The Government adds, however, that the General Directorate of Occupational Safety and Health has just begun a series of actions aimed at identifying risk situations and establishing measures of control and that the Ibero-American Institute of Co-operation has begun to assist the Government in the drafting of Ministerial resolutions and agreements to regulate certain aspects of safety and health, taking into account the Committee of Experts' comments.

The Committee hopes that the necessary steps will be taken in the very near future, in consultation with the most representative organizations of employers and workers concerned, as called for by Article 6(a) of the Convention, to ensure that effect is given to the following provisions of the Convention: Article 1 (periodical determination of carcinogenic substances and agents to which occupational exposure is prohibited or made subject to authorization or control); Article 2 (replacement of carcinogenic substances and agents by others less harmful and reduction of the duration of exposure and the number of workers exposed); Article 3 (special measures of protection against the risks of exposure and establishment of a system of records); and Article 5 (medical or biological examinations of the workers concerned during the period of employment and thereafter as necessary).

[The Government is asked to report in detail for the period ending 30 June 1994.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Syrian Arab Republic, Uruguay, Venezuela.

Convention No. 140: Paid Educational Leave, 1974

Spain (ratification: 1978)

1. With reference to the requests addressed directly to the Government in 1991 and 1992, the Committee notes the Government's report and the comments made by the General Union of Workers (UGT), which it transmits with the report.

2. In its previous comments, the Committee noted that the Government referred mainly to section 22 of the Workers' Charter, which provides for the right of workers to take certain forms of educational leave, but leaves it to collective bargaining to determine the conditions under which this right is exercised. It also noted that, according to the UGT, it was rare for collective agreements to provide for paid educational leave, and that none of them establish the right to leave for trade union purposes. The Committee requested the Government to specify the measures which have been taken to promote paid educational leave for the purposes set out in the Convention, and the terms under which such leave is granted, and to supply any statistics available on the number of beneficiaries of such leave.

3. The Government confirms in its report that section 22 of the Workers' Charter remains the principal legal basis for the granting of educational leave. It also mentions the measures which have been taken, in the context of the National Vocational Training and Integration Plan, with a view to promoting training during employment in enterprises in sectors which are undergoing restructuring or reconversion. The Government also states that the agreement for the modernization of the administration and the improvement of working conditions concluded between the administration and the trade unions on 16 November 1991 includes a series of measures through which the public administration undertakes to develop the granting to its employees of educational leave, with explicit reference to the Convention.

4. The Committee notes that the UGT reiterates its previous criticisms of a policy which, by placing emphasis on the vocational training and integration of the unemployed, omits to provide for paid educational leave as a means of training workers during employment. This trade union organization emphasizes that, in practice, the use of paid educational leave is intended to respond to the needs of

enterprises rather than to pursue the educational objectives set out in Article 3 of the Convention, and that even section 22 of the Workers' Charter does not guarantee the payment of wages in the event of such leave. In reply to the UGT's comments, the Government considers that the Convention does not oblige the ratifying State to immediately establish the right of all workers to paid educational leave, but sets out its commitment to apply progressively a policy for the promotion of paid educational leave, taking into account national conditions, which only the Government is in a position to evaluate.

5. The Committee wishes to recall, as it emphasized in its 1991 General Survey, that being a party to the Convention does not imply that all the objectives set out therein are already achieved or have to be achieved immediately, but involves a commitment to implement them progressively, by methods appropriate to national conditions and practice. Article 2 of the Convention lays down the fundamental obligation to formulate and apply a policy designed to promote the granting of paid educational leave for the purposes stipulated, "by stages as necessary", and taking into account "the stage of development and the particular needs of the country and of different sectors of activity", in accordance with Article 4. It is therefore possible for the Government to concentrate first on granting paid educational leave for one of the purposes set out in the Convention or in certain sectors of activity, while promoting gradually in the longer term the granting of paid educational leave for the other purposes and in other sectors of activity.

6. The Committee notes with interest in this context the Government's commitment, as set out in the agreement between the administration and the trade unions, to develop the granting of paid educational leave to its own employees. It would be grateful if the Government would supply detailed information on the implementation of this commitment in practice, with an indication of the number of workers who have benefited from paid educational leave, and the conditions under which it was granted, the duration of the leave and the level of benefits provided. The Committee also notes the information concerning the role of collective bargaining in determining entitlement to paid educational leave. It trusts that the Government's next report will describe positive developments in this respect such as to permit the extension of the granting of paid educational leave under conditions which conform, in particular, with the provisions of Articles 1 and 11.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Guinea, Guyana, Hungary, San Marino.

Convention No. 141: Rural Workers' Organisations, 1975

India (ratification: 1977)

The Committee regrets that the Government's report has not been received. The Committee notes, however, the written and oral information supplied by a Government representative to the Conference Committee in June 1992 and the discussion that took place in this respect.

1. Refusal of Government of Maharashtra to negotiate with muster assistants employed through the Employment Guarantee Scheme. The Hind Mazdoor Sabha Union (HMS) made comments regarding the status of muster assistants (workers that provide water or medical facilities at work sites) who are employed through the state Government's Employment Guarantee Scheme (EGS). According to these comments, the Government issued a notification in 1987 providing that muster assistants were not covered under the Industrial Disputes Act, 1947 or the Trade Unions Act, 1926. When that notification was struck down by the Bombay High Court the state Government still refused to negotiate.

The Government stated that the Employment Guarantee Scheme (EGS) was started by the Government of Maharashtra in 1972 to provide productive employment in rural areas and in certain municipal councils. The Government pointed out that this work is, in essence, a public works programme in that it involves an employment guarantee of limited duration by the Government (for each job assignment). The Government stated that these labour laws do not apply to muster assistants because their work cannot be equated with normal employment.

The Committee notes from the Government's report that the state Government of Maharashtra has taken positive action in the spirit of the Convention by passing legislation, namely the Maharashtra Employment Guarantee Act, to improve employment possibilities of rural workers. The Committee also notes that the state Government apparently recognizes the rights of the muster assistants to organize; the state Government is not alleged to have impeded the establishment of the union, and at the outset responded favourably to its grievances.

The Committee considers, however, that by its recent refusal to negotiate with the muster assistants the Government has not fully observed the Convention. Given that muster assistants are persons engaged in related occupations in a rural area covered by Article 2 of the Convention, the Government should take steps to observe the principles stated in Article 6, which include promoting "the widest possible understanding of the need to further the development of rural workers' organizations and of the contribution they can make to improving employment opportunities and general conditions of work and life in rural areas as well as to increasing the national income and achieving a better distribution thereof".

2. Alleged inadequate pay and service conditions of female workers employed in the state Government's "Integrated Child Development Scheme". The Hind Mazdoor Sabha Union (HMS) comments criticized the conditions of employment of more than 300,000 female workers in the state Government programme called the Integrated Child Development Scheme (ICDS). The union asserts that in light of the

Convention, the Government's pay and services provisions constitute unfair labour practices.

The Government states that the ICDS is a centrally sponsored scheme that pays a "small honorarium and not any salary as such" to women from local villages who run the local child care centres. The Government considers that these women have the constitutional right to form a union but are not covered in any way under the present Convention because they are not "rural workers" as defined in the Convention.

The Committee considers that, like muster assistants in the state programme, the ICDS participants are rural workers as defined by the "related occupations" provision under the Convention.

The Committee recalls that Article 2 of the Convention states that "the term 'rural workers' means any person engaged in agriculture, handicrafts or a related occupation in a rural area, *whether as a wage-earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or small owner-occupier*".

It therefore considers that the Government should encourage the formation of workers' organizations as well as negotiate and consult with the organizations.

The Committee would ask the Government to provide more information respecting the steps taken to facilitate the establishment and growth, on a voluntary basis, of strong and independent organizations of these workers, without discrimination, as stated in Article 4.

3. *Working conditions and wages of forest and brick-making workers*. The Committee recalls the comments of the Hind Mazdoor Sabha Union (HMS) stating that the conditions of forest and brick workers are equivalent to that of bonded labour and that the state Government has failed to help and encourage the organization of these workers.

The Government indicates that these workers cannot be given permanent employment as there is not sufficient work, but points out that the following acts have been extended to them: the Minimum Wages Act, 1948; the Contract Labour (Regulation and Abolition) Act, 1970; the Inter-State Migrant Labour Act, 1979; and the Workmen's Compensation Act. The Government adds that it has created extensive machinery to implement these acts, but it acknowledges that enforcement has not been satisfactorily managed due to the lack of adequate labour inspection machinery. The Government states that it is in the process of improving this machinery.

The Committee notes with interest the Government's statement that it is in the process of improving the enforcement machinery of laws covering rural workers including forest and brick-making workers. Just as for the muster assistants and the ICDS female workers, the Committee would ask the Government to ensure that the Convention is fully applied to these workers.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: *Afghanistan*, *Guatemala*, *Malta*, *Philippines*.

Information supplied by Nicaragua, Venezuela and Zambia in answer to a direct request has been noted by the Committee.

Convention No. 142: Human Resources Development, 1975

Brazil (ratification: 1987)

1. With reference to its previous observation, the Committee notes the Government's report, and a communication from the "Gaúcha" Association of Labour Inspectors, dated 8 February 1993, reiterating its allegations that the provisions of the Convention are not applied (in this connection the Committee refers the Government to paragraph 2 of its 1992 observation).

2. The Government indicates that, although the unfavourable economic environment has been a considerable setback for training, the National Industrial Apprenticeship Service (SENAI) and the National Commercial Apprenticeship Service (SENAC) continue to provide occupational training courses covering many sectors of economic activity, and that the National Rural Apprenticeship Service (SENAR) has been reestablished under the National Confederation of Agriculture and its activities were never interrupted. The Government also states that the various vocational training programmes are coordinated with the school system, for example a system of equivalences has been established between the various levels of school and vocational education. The Government also indicates that following the abolition in 1988 of the Federal Manpower Council, the Ministry of Labour established a tripartite committee to examine national training and manpower policy. The Committee asks the Government in its next report to state how the work of this committee contributes to the adoption and development of comprehensive and coordinated policies and programmes of vocational guidance and vocational training, in cooperation with employers' and workers' organizations, in accordance with Articles 1 and 5 of the Convention.

3. The Committee notes that the Government's report does not contain the information requested on the effect given to the provisions of Article 3. It recalls AGITRA's allegations that the systems of vocational guidance and continuing employment information are inadequate and do not supply any of the information specified by Article 3, paragraph 2 and 3. The Committee also notes that, in its 1992 report on the application of Convention No. 122, the Government indicates that the National Employment System (SINE) carries out guidance activities, but provides no further details. It trusts that in its next report the Government will provide full information on the measures taken to give effect to this Article.

4. The Committee also hopes that the next report will indicate the measures taken, in accordance with Article 4, to extend, adapt and harmonize vocational training systems. It asks the Government to provide all relevant extracts of reports, studies, surveys and statistics (Part VI of the report form).

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Algeria, Argentina, Belarus, Cyprus, Ecuador, Greece, Guinea, Netherlands, Nicaragua, Portugal, Russian Federation, Spain, Tunisia, Ukraine, Venezuela.

Convention No. 143: Migrant Workers (Supplementary Provisions), 1975

Italy (ratification: 1981)

The Committee notes the information supplied by the Government in its report and the observations of the Italian General Confederation of Labour (CGIL) and the Italian Confederation of Workers' Unions (CISL) on the application of the Convention.

With regard, in particular, to the application of Article 1 of the Convention, the Committee notes with interest the adoption of Regional Act (Tuscany) No. 22 of 22 March 1990 to protect and promote the human rights of migrants from outside the EEC, by establishing a Regional Council for extra-community immigration, whose members include representatives of migrants' associations and employers' and workers' organizations. The above Act provides for the adoption and implementation of a programme to cover activities such as reception centres, information, social integration and protection of culture, integration into the labour market, medical and social coverage, accommodation, legal assistance, etc. Similar Acts have been adopted by other regions such as Liguria (Act No. 7 of 9 February 1990), Emilia Romagna (Act No. 14 of 21 February 1990), Puglia (Act No. 29 of 11 May 1990), Umbria (Act No. 18 of 10 April 1990), il Veneto (Act No. 9 of 30 January 1990), etc.

The Committee also notes that under section 11 of Legislative Decree No. 195 of 1 March 1992, extra-community migrants who are lawfully resident in the Italian territory and who are enrolled on placement lists should, for purposes of medical assistance provided by the National Medical Service, be considered as Italian citizens enrolled on the same lists. It also notes the measures taken by almost all the regions to ensure that extra-community migrants receive the same treatment as Italian citizens in respect of social protection and the right of association, in accordance with the provisions of Article 10 of the Convention.

The Committee asks the Government to continue to provide information on any further progress accomplished in this area and on the application of the measures taken to give effect to the Convention.

The Committee also asks the Government to provide information on the points raised in a request addressed to it directly.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Benin, Burkina Faso, Cyprus, Guinea, Italy, Norway, Portugal, San Marino, Togo, Uganda.

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Bahamas (ratification: 1979)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee recalls that genuine consultations should be held frequently so that each of the questions listed in Article 5, paragraph 1, of the Convention may be examined when necessary, in accordance with the principle of "effective consultations" set forth in Article 2. Certain subjects (replies to questionnaires, submission to the competent authorities, reports to be made to the ILO under article 22 of the Constitution of the Organization) imply annual consultations, whereas other subjects (for example, proposals for the denunciation of ratified Conventions), arise less frequently.
>
> In these circumstances, the Committee again requests the Government to describe the measures taken or under consideration to hold regular consultations on these matters. It also requests the Government to furnish detailed information concerning the consultations held (during the period covered by the next report) on the various matters listed in Article 5, paragraph 1, specifying the results that these consultations have led to.
>
> Moreover, the Committee recalls that according to Article 6, representative organizations of employers and workers should be consulted on the necessity of producing an annual report on the working of the procedures provided for in the Convention. It requests the Government to state whether such consultations have taken place and, in the affirmative, to provide information on any results.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Greece (ratification: 1981)

Referring to its previous observations, the Committee notes with interest the adoption of Presidential Decree No. 296, dated 4 July 1991, on the "Procedure for the Promotion of the Application of International Labour Standards". It notes the creation, within the Supreme Labour Council, of a special department set up as a tripartite consultation body explicitly endowed with the competence for examining the questions listed under Article 5, paragraph 1, of the Convention.

The Committee furthermore notes Decision No. 11127, dated 18 February 1992, of the Minister of Labour, respecting the setting up of this department, and the supplementary information provided by the Government, sent in March 1993, on the consultations which have taken place within the framework of the new procedures.

The Committee requests the Government to continue to provide information on the functioning of these procedures, concerning specifically the consultations which have taken place on each of the questions in Article 5, paragraph 1, during the period covered by the next report. It would also be grateful if the Government would indicate whether it envisages producing an annual report on the functioning of the procedures, as provided for under Article 6 of the Convention.

India (ratification: 1978)

The Committee notes the information supplied by the Government in its report on the matters on which tripartite consultations were held in 1990-91 and 1991-92.

With reference to its previous observation, the Committee notes with interest the Government's statement that the Tripartite Committee on Conventions has been reconstituted and was due to meet at the beginning of 1993.

The Committee requests the Government to supply information on the consultation procedures, and on the composition and work of the Tripartite Committee on Conventions, and to continue to report on the consultations held concerning each of the matters set out in Article 5, paragraph 1, of the Convention.

Nicaragua (ratification: 1981)

The Commmittee notes the Government's report. It regrets to note the Government's indications that the representative organizations of employers and of workers have not, with one exception, responded to its requests for consultation on the matters covered by the Convention. For the Government, tripartism implies the responsibility of the organizations of workers and of employers and, in its opinion, these organizations do not have a clear concept of their role with relation to international standards and the activities and procedures of the ILO.

The Committee wishes to recall that in accordance with Article 2 of the Convention, each Government which has ratified the Convention undertakes to operate procedures which ensure effective consultations with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, between representatives of the Government, of employers and of workers.

The Committee also recalls that, in its report adopted in November 1990, the Commission of Inquiry appointed under article 26 of the ILO Constitution considered that "the Government should establish and apply as soon as possible procedures ensuring effective consultation" in the field of international labour standards and that "before establishing such procedures, the Government should consult the representative workers' and employers' organizations as required by the Convention".

The Committee therefore requests the Government to supply information in its next report on the measures which have been taken to establish effective consultation procedures, and to apply these procedures, particularly with regard to the matters set out in Article 5, paragraph 1 of the Convention.

Finally, the Committee requests the Government to describe all the arrangements which have been made for the financing of any necessary training of participants in consultation procedures, in accordance with Article 4, paragraph 2, and notes in this respect the interest expressed in ILO technical cooperation.

Sierra Leone (ratification: 1985)

The Committee notes from the Government's reply to its previous comments that the Joint Consultative Committee, referred to in the first report as the body responsible for the consultations to be held under the Convention, has never been convened since the ratification of the Convention. The Committee hopes that following the restructuring process of the Government it will completely implement the provisions of the Convention, particularly as concerns the consultations to be undertaken by the Joint Consultative Committee on each of the matters set forth in Article 5, paragraph 1, of the Convention, and on the frequency of these consultations (Article 5, paragraph 2). It trusts that the Government will supply the requested information in its next report.

Spain (ratification: 1983)

1. The Committee notes the information supplied by the Government in its report and the comments made by the General Union of Workers (UGT) which considers, among other things, that consultation procedures should not be limited to written communications. It notes Act No. 21 of 17 June 1991 establishing the Economic and Social Council which, according to the Government's previous report, would be able to examine the matter of selecting a different consultation procedure. It notes the Government's indication that the above Council only came into operation in October 1992. The Committee observes that the Act of 1991 does not establish the participation of government representatives in the Council which acts in an advisory capacity for the Government particularly when legislation is prepared to regulate labour matters. Furthermore, according to the Government, since the Council is an autonomous body, there is nothing to prevent it from dealing with matters concerning international labour relations.

2. The Committee also notes that other observations made by the UGT reiterate its previous comments on a number of points to which the Government has replied: the Committee notes the Government's reply concerning the financing of any necessary training of participants in the procedures (Article 4, paragraph 2, of the Convention), and consultations on questions arising out of reports to be made to the International Labour Office under article 22 of the ILO Constitution (Article 5, paragraph 1(d)).

The Committee also observes that, according to the UGT, despite the fact that it expressly requested them, no consultations were held to examine the ratification of certain Conventions, particularly the Social Security (Minimum Standards) Convention, 1952 (No. 102) (Article 5, paragraph 1(c)).

3. The Committee notes the Government's statement that it is open to any proposals from employers' and workers' representative organizations to make the consultations more effective (Article 2). It would be grateful if the Government would continue to provide information on any progress made in this respect, indicating in particular the extent to which the above-mentioned Economic and Social Council is consulted on matters concerning ILO standards and activities.

4. Lastly, the Committee asks the Government in its next report to provide the information required on consultations on each of the subjects listed in Article 5, paragraph 1, particularly points (c) (re-examination at appropriate intervals of unratified Conventions) and (d) (consultations on reports to be made under article 22 of the Constitution).

Togo (ratification: 1983)

The Committee notes that since the Convention's entry into force for Togo, the Government's reports have contained no information concerning the application of Article 5, paragraph 1, of the Convention, concerning the subjects of the consultations. It trusts that the Government will not fail to give particulars of the consultations that have taken place during the period covered by the next report. The matter is dealt with more fully in a request addressed directly to the Government.

United Kingdom (ratification: 1977)

1. The Committee notes the information supplied by the Government in its report on the application of the Convention for the period 1990-92, received on 9 October 1992. It also notes the observations of the Trades Union Congress (TUC) in a communication dated 13 January 1993 addressed directly to the International Labour Office.

2. The TUC alleges, first, that the reports to be submitted to the ILO under article 22 of the ILO Constitution are sent to the TUC only after the Government has completed them and, sometimes, several weeks after they have been completed. On its reading of the Convention, the TUC considers that consultations on questions arising out of these reports are required before the reports are sent to the ILO. Referring more specifically to the application of ratified Conventions Nos. 87, 98 and 122, which prompted comments by the Committee of Experts, the TUC complains that the Government refused to discuss the Committee's conclusions and alleges that there were no effective consultations on the application of ratified Conventions. Lastly, referring to Convention No. 97, the TUC also alleges that there were no effective consultations on the proposals concerning the denunciation of ratified Conventions.

3. The provisions which are the subject of the TUC's observations are Article 2, paragraph 1, and Article 5, paragraph 1(d) and (e). On the basis of its General Survey of 1982, the Committee wishes to recall, firstly, the purpose of these provisions. According to Article 5, paragraph 1(d), of the Convention, consultations shall address questions that may arise out of reports to be made to the ILO concerning the application of ratified Conventions. In such cases, consultations concern first and foremost the content of the reply to the comments of the supervisory bodies. Article 5, paragraph 1(e), establishes the principle approved by the Governing Body in 1971, that whenever a denunciation is envisaged, before taking a decision the Government should consult the representative organizations of employers and workers on problems encountered and measures to be taken to resolve them.

4. With regard to the scope of the obligation to hold consultations, the Committee has pointed out, in particular in its General Survey referred to above, that the obligation to hold consultations must be fulfilled before the proposed measures are decided upon, if the procedure is not to be a mere formality. This is essential when it is apparent that either the employers or the trade unions may have views that differ from those held by the Government. As for the results of the consultations, although they are not binding on the Government, the latter is none the less obliged to ensure that tripartite consultations are effective, in accordance with Article 2, paragraph 1. For the Committee, "effective consultations" are consultations which enable employers' and workers' organizations to have a useful say in matters relating to the activities of the ILO referred to in Article 5, paragraph 1.

5. The Committee trusts that the Government will take the above comments into consideration and that it will conduct the required consultations, particularly on questions arising out of reports on ratified Conventions and proposals concerning the denunciation of Conventions, in keeping with the spirit and letter of the provisions of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Bangladesh, Barbados, Costa Rica, Côte d'Ivoire, Ecuador, Finland, France, Gabon, Guatemala, Guyana, Indonesia, Ireland, Kenya, Malawi, New Zealand, Norway, Portugal, Suriname, Sweden, United Republic of Tanzania, Togo, Zambia, Zimbabwe.

Information supplied by Argentina, Austria, Mexico and Uruguay in answer to a direct request has been noted by the Committee.

Convention No. 145: Continuity of Employment (Seafarers), 1976

Requests regarding certain points are being addressed directly to the following States: Brazil, Netherlands.

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

Italy (ratification: 1981)

Articles 3(3) and 6 of the Convention. Further to its previous comments, the Committee notes from the Government's report that the Supreme Court (la Corte di Cassazione) has apparently ruled that the Convention's provisions were not applied until the FEDARLINEA collective agreement of 20 December 1984 came into force on 1 January 1985.

The Committee has also noted the comments of the shipowners' organizations CONFITARMA and FEDARLINEA and the Italian Federation of Transport Workers-CGIL (FILT/CGIL), that the Convention is duly applied through the national collective agreements. At the same time, the Committee recalls that, while division of the annual leave is possible under Article 8, it should consist of an uninterrupted period. Annual leave may be substituted by remuneration under Article 9 only in exceptional cases; and under Article 11 any agreement to relinquish the right to the minimum leave should be null and void. The Committee would in this light be glad if the Government would describe how the provisions of the collective agreements supplied enabling deferment of annual leave in whole or in part and the payment of compensation for leave not taken for predominating company reasons are applied in practice.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France, Iraq, Morocco, Nicaragua, Portugal.

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

Belgium (ratification: 1982)

Article 2(a) of the Convention (Conventions listed in the Appendix to Convention No. 147, but not ratified by Belgium):

> Convention No. 134, Article 7. Further to its previous comments, the Committee takes due note of the information supplied by the Government concerning the supervision of provisions on board ship. It would be grateful if the Government would, however, indicate any measures taken or envisaged to give full effect to Article 2(a) of Convention No. 147 with respect to Article 7 of Convention No. 134, which requires legislation to provide for the appointment, from amongst the crew of the ship, of a suitable person or suitable persons or of a suitable committee responsible, under the Master, for accident prevention.

Article 2(f). The Committee notes the Government's very brief reply to its previous comment, to the effect that the competent maritime authorities permanently monitor the conformity of ships with international labour Conventions, but it is impossible to establish statistics. The Committee recalls the importance that it attaches to verification, by inspection and other appropriate methods, that ships conform to the prescribed standards (see paragraphs 246 to 256 of its 1990 General Survey of Labour Standards on Merchant Ships). It hopes that the Government will take the necessary measures to supply in its future reports the detailed information on the operation of the inspection system requested in the report form.

Article 2(g). The Committee hopes that the Government will supply all appropriate information concerning official inquiries into any serious maritime casualty, in conformity with this provision of the Convention.

Costa Rica (ratification: 1981)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its previous comments, the Committee notes that the Government's report again explains that there is no merchant fleet in Costa Rica, but that efforts are being made to establish detailed regulations on various matters dealt with in the Convention. The Committee is referring to such details in a new direct request.
>
> The Committee recalls meanwhile that certain provisions of the Convention relate to employment on foreign-registered ships (notably Article 2(d)(ii) and Article 3 concerning engagement procedures within the territory; and Article 4 concerning port state action). It hopes the Government will have due regard to these provisions and supply details of all steps taken to implement them.
>
> Article 5, paragraph 1, provides that the Convention is open to ratification by States which are parties to certain instruments of the International Maritime Organization (IMO). The Committee recalls that, under paragraph 2, a State which, like Costa Rica, is not already a party to the IMO instruments listed in paragraph 1 may ratify the Convention if it gives an undertaking to fulfil the requirements of paragraph 1. Although such an undertaking was duly given by the Government, and the Government earlier indicated the matter has been examined, the Committee would be grateful if the Government would indicate in the near future the measures taken to implement its undertaking in this respect.

Liberia (ratification: 1981)

Further to its general observation, the Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> Further to its previous comments, the Committee notes that the Government has not yet communicated a detailed report on the Convention. It has also noted that direct contacts took place in

1989 between the Government and a mission from the Director-General of the ILO relating to the present Convention, amongst others.

The Committee would be grateful if the Government would provide a detailed report on the Convention in the form approved by the Governing Body. Having regard to Article 2(f) of the Convention, it hopes that the Government will describe inspection and other arrangements - at home or abroad - whereby it ensures that ships registered in Liberia comply with applicable international labour Conventions which it has ratified (in particular Nos. 22, 23, 53, 55, 58, 87, 92, 98 and 108) and with the laws and regulations required under Article 2(a) of the present Convention (including those ensuring substantial equivalence to Convention No. 73, Article 5 of Convention No. 68, and Articles 4 and 7 of Convention No. 134). It hopes the Government will also indicate, as requested in the report form, the size of inspection staff, the numbers and results of inspections and investigations of complaints, and any penalties imposed.

The Committee is dealing with further matters in a direct request.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Costa Rica, France, Liberia, Morocco.

Convention No. 148: Working Environment (Air Pollution, Noise and Vibration), 1977

Costa Rica (ratification: 1981)

The Committee notes with regret that the Government's report has not been received. It must therefore repeat its previous observation concerning the following matters:

1. The Committee had noted from the Government's report for the period ending 30 June 1987 that the National Council for Occupational Health had undergone a reorganization in order to improve occupational health and safety conditions and to create inter-institutional commissions with the aim of developing technical occupational health and safety standards. The Government had aimed at, inter alia, promoting the application of certain provisions of the Convention. The Committee requests the Government to provide information in its next report on the activities of the National Council for Occupational Health and the progress made towards ensuring application of the Convention.

2. The Committee also noted that the draft regulations, to which the Government had made reference in its report for the period ending 30 June 1985, were in the course of being substantially revised. The Committee expressed the hope that the

Government would be able to indicate in detail the progress made on the adoption of such regulations and standards and that full effect would be given to the following Articles of the Convention: Article 4, paragraph 2 (adoption of supplementary technical standards for the practical implementation of laws and regulations); Article 8, paragraphs 1 and 3 (establishment and regular revision of the criteria and exposure limits for all hazards covered by the Convention and in particular air pollution and vibrations at the workplace); Article 9 (adoption of technical measures or supplementary organizational measures for the protection of workers against hazards due to air pollution).

3. The Government is also requested to indicate the steps taken to ensure that pre-assignment and periodical medical examinations are provided to workers without cost in accordance with Article 11, paragraphs 1 and 2 of the Convention.

4. The Government had indicated in its report for the period ending June 1985 that a list of dangerous substances was being prepared as part of the National Occupational Safety Plan (1985-90). The Government is requested to indicate whether the list of dangerous substances provided for in the National Plan has been established and, if so, to supply a copy of the list and to indicate how applications for authorization to use the substances on this list, as well as other dangerous processes or materials, are submitted to the competent authority in accordance with Article 12 of the Convention. The Government is also requested to indicate whether any such substance, process or material has been prohibited or regulated by the competent authority.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Denmark, Egypt, France, Ghana, Italy, Malta, Russian Federation, Uruguay.

Convention No. 149: Nursing Personnel, 1977

Uruguay (ratification: 1980)

In its previous comments, the Committee noted the allegations made by the Nurses' Association of Uruguay that Decree No. 310/991 of 27 November 1991, establishing a nurse's diploma issued by the School of Health of the Ministry of Public Health, was adopted without the persons concerned being consulted and does not solve the problem of the lack of professional nurses, the main causes of which are low wages and hard working conditions.

The Committee takes note of the detailed information supplied by the Government. It notes that Decree No. 310/991 establishes a "degree in nursing care" which can be obtained in four years by persons who have completed their secondary education (sections 1 and 2) and an intermediate diploma in technical assistance in nursing which can be obtained in two years (section 3). The Decree defines the tasks which may be carried out by nurses and technical assistants (sections 4 and 5). It also establishes, provisionally and exceptionally, further training and refresher courses for auxiliary nurses who have qualified at the School of Health and who have practised for ten years. These courses last 18 months and lead to a "degree in nursing care" (sections 6, 7 and 8). Persons who have obtained their qualifications at the School of Health will be given preference in the competitive examinations for entry to the Ministry of Public Health (section 12). Lastly, the education provided by the School of Health shall be coordinated with and complementary to that provided by the University and other institutions pursuing the same ends (section 13).

The Committee notes that the provisions of Decree No. 310/991 give effect to Articles 2, paragraph 2(a) and 3 of the Convention. The Committee recalls, however, that under Article 2 of the Convention, the policy concerning nursing services and nursing personnel which must include the necessary measures to provide nursing personnel with education and training appropriate to the exercise of their functions shall be formulated in consultation with the employers' and workers' organizations concerned. The Committee notes that in its detailed explanations the Government does not indicate whether such consultations were held prior to the adoption of Decree No. 310/991 or refer to the results thereof.

The Committee asks the Government to indicate the measures that have been taken to ensure that the employers' and workers' organizations concerned are consulted, in accordance with the provisions of the Convention, particularly with regard to Article 2, paragraphs 3 and 4 and Article 5, paragraph 1, of the Convention.

The Committee raises another question concerning the application of Article 2, paragraph 2(b), in a request addressed directly to the Government.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Congo, Guyana, Kenya, Malawi, Poland, Uruguay, Venezuela.

Convention No. 150: Labour Administration, 1978

Spain (ratification: 1982)

The Committee notes the Government's response to the comments of the General Union of Workers (UGT) on the application of Article 5, paragraph 1, of the Convention, which concern the consultations, cooperation and negotiation necessary for determining national labour administration policy. The UGT called for changes in the system of "institutional participation" in order to achieve the aim of the

Convention, which is to involve employers' and workers' representatives in labour administration. The Government lists the bodies in which the workers' organizations are represented and participate at the European Community and national levels. It states that it is up to the Government to determine participation in labour administration and the appropriate procedures to this end, which must ensure consultation, cooperation and negotiation between the public authorities and the social partners. The Government considers these requirements are met, in view of the instances it cites in its reply. The Government adds that workers' organizations do take part in determining labour policy through the social dialogue which includes collective bargaining and the conclusion of national agreements in this regard. Lastly, the Government indicates that the Congress of Deputies has agreed to discuss the Bill to regulate the functioning of the Economic and Social Council as a consultative body in which workers' and employers' representatives and other organizations participate.

The Committee would be grateful if the Government would continue to provide information on the application of this Article of the Convention in its future reports.

Venezuela (ratification: 1983)

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes the observation provided by the Venezuelan Federation of Chambers and Associations of Commerce and Production (FEDECAMARAS). These concern what FEDECAMARAS perceives as inadequacies in the degree of consultation and cooperation with and between employers' and workers' organizations as to labour legislation and practices, as required by Articles 3, 5 and 6(c) and (d) of the Convention; the establishment of an efficient system of labour administration (Article 4); and the training, status and financial resources of labour administration staff (Article 10). The Committee would be glad if the Government would indicate its own views in this respect and any further measures taken or proposed.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Congo, Costa Rica, Italy, Tunisia, Uruguay, Zaire.

Information supplied by San Marino in answer to a direct request has been noted by the Committee.

Convention No. 151: Labour Relations (Public Service), 1978

Portugal (ratification: 1981)

The Committee notes the comments of the National Federation of Public Service Trade Unions of 9 December 1992 concerning the difficulties related to the legal status of public service workers engaged in scientific research.

The Committee requests the Government to make in its next report any comments or observations that it deems appropriate in order to enable the Committee to deal with these comments at its next session.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Guyana, Uruguay, Zambia.

Information supplied by Argentina and San Marino in answer to a direct request has been noted by the Committee.

Convention No. 152: Occupational Safety and Health (Dock Work), 1979

Brazil (ratification: 1990)

The Committee takes note with interest of the information communicated by the Government in its first report on the application of the Convention.

The Committee takes note of the letter, under the date of 13 January 1993, sent by the Crane, Fork-lift, and Other Maritime and River Ports and Terminals Cargo Handling Machinery and Equipment Operators' Union of the State of Sao Paulo which refers to the questions concerning the application of the Convention. The copy of this letter was sent to the Government on 10 February 1993 in order that it might provide the comments which it considers pertinent.

[The Government is asked to report for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Congo, Cuba, Cyprus, Ecuador, Finland, France, Germany, Guinea, Mexico, Norway, Spain, Sweden.

Convention No. 153: Hours of Work and Rest Periods (Road Transport), 1979

Venezuela (ratification: 1983)

The Committee notes with regret that for the fifth successive year the Government's reports have not been received.

It furthermore observes that since it examined the Government's first report in 1988, no report has been received.

The Committee hopes that the Government will provide a report for examination at its next session and that it will contain full information on the matters referred to in the direct request of 1988, which it sees itself obliged to repeat.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Ecuador, Iraq, Mexico, Uruguay.

Convention No. 154: Collective Bargaining, 1981

Requests regarding certain points are being addressed directly to the following States: Gabon, Uruguay, Zambia.

Information supplied by Belgium in answer to a direct request has been noted by the Committee.

Convention No. 155: Occupational Safety and Health, 1981

Venezuela (ratification: 1984)

The Committee notes with interest the Government's communication dated 12 June 1992 concerning the creation of the National Council and the National Institute on Prevention and Health and Safety at Work by Decree No. 2.208 of 23 April 1992; it however notes with regret that no report has been received from the Government in response to the other issues raised by the Committee in its previous comments. The Committee, therefore, trusts that the Government will supply a detailed report in the very near future on the following points:

1. Article 4, paragraph 1, of the Convention. The Committee notes that the newly created National Council on Prevention and Health and Safety at Work is, by virtue of section 8 of the Basic Act of 1986 on prevention, working conditions and the working environment, authorized to draw up national policy with respect to working conditions and working environment as concerns the prevention of workers' health, safety and welfare and is responsible for overseeing the observance of all the standards contained in the Act and the regulations issued thereunder. It further notes the Government's indication in its letter of 12 June 1992 that progress is being made

on the consolidated social security draft with a view towards ensuring the implementation of the provisions of the Basic Act. The Committee hopes that the Government will indicate the progress made in the revision of the consolidation of social security laws and the measures taken or envisaged in the draft to improve the application of the Basic Act.

2. With reference to its previous comments, the Committee hopes that the Government will indicate the manner in which the relationships between, on the one hand, the material elements of work and the persons who carry out or supervise the work and on the other, the adaptation of machinery, equipment, working time, organization of work and work processes to the physical and mental capacities of the workers (Article 5(b)) are taken into account in the national policy and the measures taken to provide for communication and cooperation at all levels (Article 5(d)). The Government is also requested to indicate the measures taken or envisaged to ensure that the functions elaborated in Article 11 of the Convention are carried out.

3. Article 8. In previous comments, the Committee noted that no new regulations had been issued to give effect to the national occupational safety and health policy called for under Article 4 of the Convention. It welcomes the creation of the National Council on Prevention and Health and Safety at Work which appears to have the authority for elaborating the regulations necessary to the implementation of the national occupational safety and health policy. The Government is requested to indicate any laws or regulations adopted or under consideration to give effect to the national occupational safety and health policy.

4. The Committee is raising a number of other points in a request addressed directly to the Government.

[The Government is requested to report in detail for the period ending 30 June 1993.]

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Uruguay, Venezuela.

Convention No. 156: Workers with Family Responsibilities, 1981

Requests regarding certain points are being addressed directly to the following States: Argentina, France, Netherlands, Peru, San Marino, Uruguay.

Convention No. 157: Maintenance of Social Security Rights, 1982

A request regarding certain points is being addressed directly to Sweden.

Convention No. 158: Termination of Employment, 1982

Requests regarding certain points are being addressed directly to the following States: Cameroon, France, Gabon, Malawi, Niger, Zaire, Zambia.

Convention No. 159: Vocational Rehabilitation and Employment (Disabled Persons), 1983

Requests regarding certain points are being addressed directly to the following States: Argentina, Australia, Burkina Faso, China, Colombia, Ecuador, Egypt, El Salvador, Malawi, Malta, Peru, Russian Federation, Tunisia, Uruguay, Zambia.

Convention No. 160: Labour Statistics, 1985

Requests regarding certain points are being addressed directly to the following States: Australia, Austria, Cyprus, El Salvador, Finland, Italy, Norway, Spain, Sweden, Switzerland.

Convention No. 161: Occupational Health Services, 1985

Requests regarding certain points are being addressed directly to the following States: Finland, Guatemala, Hungary, Uruguay.

Convention No. 162: Asbestos, 1986

Finland (ratification: 1988)

The Committee has taken note of the comments made by the Central Organization of Finnish Trade Unions (SAK) and the Finnish Employers' Confederation (STK) in the Government's reports. The Committee is dealing with these comments and other points in a request addressed directly to the Government.

* * *

In addition, a request regarding certain points is being addressed directly to Finland.

Information supplied by Sweden in answer to a direct request has been noted by the Committee.

Convention No. 163: Seafarers' Welfare, 1987

Requests regarding certain points are being addressed directly to Spain, Switzerland.

Convention No. 166: Repatriation of Seafarers (Revised), 1987

A request regarding certain points is being addressed directly to Hungary.

Convention No. 167: Safety and Health in Construction, 1988

Requests regarding certain points are being addressed directly to the following States: Hungary, Mexico.

Convention No. 169: Indigenous and Tribal Peoples, 1989

Requests regarding certain points are being addressed directly to the following States: Norway, Mexico.

Appendix I. Receipt of Detailed Reports on Ratified Conventions as at 24 March 1993

(Article 22 of the Constitution)

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
Grand Total	1194		630		1824
AFGHANISTAN	0		6	95 111 137 139 140 141	6
ALBANIA	0		14	6 10 11 16 29 52 58 59 77 78 87 98 100 112	14
ALGERIA	10	3 11 13 68 91 92 97 99 119 120	4	32 87 111 122	14
ANGOLA	0		8	1 7 26 68 91 92 108 111	8
ANTIGUA AND BARBUDA	0		10	11 17 19 29 81 87 98 105 111 138	10
ARGENTINA	12	1 3 9 11 26 30 58 68 87 111 144 156	0		12
AUSTRALIA	14	7 9 11 47 87 99 111 112 122 131 137 144 156 159	0		14
AUSTRIA	12	11 26 87 99 102 103 111 122 128 135 141 144	0		12
BAHAMAS	0		14	5 7 10 11 19 26 29 42 81 94 97 105 117 144	14
BANGLADESH	6	1 11 87 107 111 144	0		6
BARBADOS	17	5 10 19 26 29 63 74 81 87 100 102 105 111 118 128 135 144	4	7 11 97 122	21
BELARUS, REPUBLIC OF	9	11 47 87 103 111 119 120 122 160	0		9

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
BELGIUM	18	1 9 11 26 68 87 91 92 97 99 102 111 120 122 126 144 149 154	2	82 107	20
BELIZE	0		6	11 26 58 87 97 99	6
BENIN	4	11 26 87 111	1	143	5
BOLIVIA	10	1 20 30 87 102 103 120 128 131 162	4	105 111 122 160	14
BOTSWANA	1	14	0		1
BRAZIL	21	11 29 58 91 92 94 97 103 111 120 122 131 135 139 142 145 152 159 160 161 162	0		21
BULGARIA	10	1 3 9 11 26 30 68 87 111 120	0		10
BURKINA FASO	8	3 11 87 97 111 131 132 143	0		8
BURUNDI	3	1 11 26	0		3
CAMBODIA	0		5	4 6 13 29 122	5
CAMEROON	0		13	3 9 11 87 97 106 111 122 131 143 146 158 162	13
CANADA	8	1 26 58 68 87 111 122 162	0		8
CAPE VERDE	1	111	0		1
CENTRAL AFRICAN REPUBLIC	2	62 87	17	3 5 10 11 13 19 26 29 33 41 95 99 100 105 111 117 119	19
CHAD	4	11 26 87 111	0		4
CHILE	14	1 3 7 11 20 24 25 26 35 36 37 38 111 122	2	9 30	16
CHINA	0		6	7 11 26 100 144 159	6
COLOMBIA	15	1 3 7 9 11 12 20 26 30 81 87 99 106 111 160	1	107	16
COMOROS	6	1 11 26 87 99 122	0		6

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
CONGO	11	5 11 13 26 29 33 87 119 149 150 152	0		11
COSTA RICA	0		21	1 8 11 16 87 92 102 105 111 113 120 122 129 131 134 135 137 144 147 148 150	21
COTE D'IVOIRE	11	3 11 26 29 52 87 99 110 111 136 144	2	19 133	13
CUBA	16	1 9 11 30 87 91 92 97 103 110 111 120 122 131 137 141	0		16
CYPRUS	12	11 87 97 111 114 119 122 128 143 144 154 155	1	141	13
DENMARK	15	9 11 58 87 92 102 111 112 119 120 122 126 141 144 148	0		15
DJIBOUTI	0		17	1 9 11 22 24 26 37 38 58 87 91 94 99 106 120 122 126	17
DOMINICA	0		16	11 14 16 19 22 26 29 81 87 94 97 98 100 105 111 138	16
DOMINICAN REPUBLIC	6	1 7 26 87 111 119	0		6
ECUADOR	7	11 87 97 103 112 141 153	11	101 110 111 119 120 122 128 131 144 159 162	18
EGYPT	15	1 9 11 30 56 68 87 92 106 111 131 137 144 148 159	0		15
EL SALVADOR	0		1	159	1
EQUATORIAL GUINEA	3	1 30 103	0		3
ETHIOPIA	4	11 14 87 111	0		4
FIJI	4	11 26 58 84	0		4

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
FINLAND	20	9 11 30 47 53 87 92 111 119 120 122 128 132 133 137 141 144 146 162 168	0		20
FRANCE	4	9 68 87 144	36	3 11 13 27 35 36 37 38 44 53 63 69 74 81 82 92 94 95 96 97 102 111 118 120 122 125 126 129 131 133 136 137 138 141 146 152	40
GABON	9	3 11 26 87 99 111 144 154 158	0		9
GERMANY	17	3 9 11 26 87 92 97 99 102 111 120 122 126 128 133 141 144	0		17
GHANA	5	22 59 103 111 150	9	1 11 26 30 58 87 92 119 120	14
GREECE	15	1 9 11 68 71 92 102 103 111 122 126 133 141 144 156	1	87	16
GRENADA	11	5 10 11 16 19 26 58 81 97 99 108	1	105	12
GUATEMALA	22	1 11 14 15 26 30 58 87 97 99 103 104 110 111 112 119 120 122 131 138 141 144	0		22
GUINEA	14	3 11 13 26 87 99 111 112 119 120 133 140 142 143	1	122	15
GUINEA-BISSAU	0		22	1 7 14 18 19 26 27 29 68 69 73 74 81 88 91 92 98 100 105 106 107 111	22
GUYANA	1	140	17	7 11 42 87 97 100 111 115 129 131 136 137 139 141 144 149 151	18

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
HAITI	13	1 5 19 24 25 29 30 42 81 87 100 105 111	0		13
HONDURAS	3	87 111 122	0		3
HUNGARY	15	7 26 27 87 99 103 111 122 135 140 161 163 164 166 167	0		15
ICELAND	6	11 58 91 102 111 144	3	87 122 159	9
INDIA	5	1 5 26 118 144	6	11 29 81 107 111 141	11
INDONESIA	4	29 98 120 144	0		4
IRAN, ISLAMIC REP. OF	3	100 111 122	0		3
IRAQ	10	1 11 19 30 92 94 95 105 107 137	12	111 115 118 119 120 122 131 132 144 146 153 167	22
IRELAND	14	11 26 29 53 68 81 87 92 99 102 105 122 144 159	0		14
ISRAEL	11	1 9 30 87 91 92 97 102 111 122 141	1	133	12
ITALY	18	9 11 26 68 87 92 97 99 102 111 119 120 122 137 141 143 146 150	3	103 133 144	21
JAMAICA	0		12	8 11 19 26 58 81 87 97 100 111 122 150	12
JAPAN	8	9 58 87 100 102 119 122 131	0		8
JORDAN	0		13	29 100 105 106 111 117 118 119 120 122 123 135 142	13
KENYA	12	11 17 97 99 131 134 137 141 143 144 146 149	0		12
KUWAIT	6	29 81 89 105 111 136	4	1 30 87 119	10
LAO PEOPLE'S DEM. REP.	0		2	13 29	2

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
LEBANON	0		27	1 14 15 17 19 29 30 45 52 59 77 78 81 88 89 90 95 98 100 105 106 111 115 120 122 127 131	27
LESOTHO	0		6	5 11 19 26 29 87	6
LIBERIA	0		17	22 23 29 53 55 58 87 92 98 105 108 111 112 113 114 133 147	17
LIBYAN ARAB JAMAHIRIYA	8	1 102 103 111 121 122 128 130	1	131	9
LITHUANIA, REPUBLIC OF	1	1	0		1
LUXEMBOURG	7	1 9 11 26 30 87 103	1	102	8
MADAGASCAR	17	5 6 11 13 14 19 26 33 81 87 95 100 118 123 124 129 132	7	29 111 117 119 120 122 127	24
MALAWI	0		7	11 26 97 99 111 144 149	7
MALAYSIA	2	12 119	0		2
MALAYSIA (PENINSULAR)	2	11 19	0		2
MALAYSIA (SABAH)	1	97	0		1
MALAYSIA (SARAWAK)	2	7 11	0		2
MALI	8	11 26 29 81 87 100 105 111	0		8
MALTA	13	1 14 43 45 49 87 106 111 119 131 132 141 148	13	11 21 26 73 77 78 99 117 124 127 136 149 159	26
MAURITANIA	16	3 11 26 52 58 87 89 90 91 96 101 102 111 112 114 122	1	84	17
MAURITIUS	7	11 26 84 97 99 105 138	0		7
MEXICO	19	9 11 30 58 87 102 110 111 112 120 131 141 144 153 163 164 166 167 169	0		19
MONGOLIA	3	87 111 122	4	59 100 103 123	7

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
MOROCCO	13	2 11 12 26 30 98 99 106 111 119 122 129 146	0		13
MOZAMBIQUE	5	1 11 30 100 111	0		5
MYANMAR	5	1 11 26 52 87	0		5
NEPAL	0		2	111 131	2
NETHERLANDS	21	9 11 68 87 92 97 102 103 111 122 126 128 131 133 137 144 145 146 156 159 160	1	141	22
NEW ZEALAND	14	9 11 26 47 58 68 82 92 97 99 111 122 133 144	0		14
NICARAGUA	23	1 3 11 13 16 19 30 87 100 105 110 111 119 122 131 135 136 137 139 141 142 144 146	1	9	24
NIGER	9	11 13 81 87 102 105 111 131 138	1	119	10
NIGERIA	8	11 26 58 87 97 100 123 134	2	105 133	10
NORWAY	24	9 11 26 30 47 68 87 91 92 97 102 111 119 120 122 126 128 133 137 141 143 144 168 169	0		24
PAKISTAN	11	11 16 19 27 29 32 59 81 87 96 118	1	1	12
PANAMA	14	3 9 11 26 30 52 58 87 110 111 112 119 120 122	5	8 55 68 92 126	19
PAPUA NEW GUINEA	9	8 11 19 22 27 42 85 98 105	6	7 10 26 29 99 122	15
PARAGUAY	0		13	1 11 26 29 30 81 87 99 107 111 119 120 122	13
PERU	13	1 11 35 36 37 38 39 40 44 111 112 122 159	14	9 20 26 27 29 53 58 67 68 81 87 99 102 156	27

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
PHILIPPINES	9	23 53 77 87 99 110 111 122 141	0		9
POLAND	20	9 11 35 36 37 38 39 40 68 87 91 92 99 103 111 119 120 122 133 137	0		20
PORTUGAL	17	1 7 8 11 68 87 92 97 103 111 120 122 131 137 143 144 146	0		17
QATAR	1	81	1	111	2
ROMANIA	11	1 3 9 11 87 111 122 131 135 137 138	0		11
RUSSIAN FEDERATION	10	87 92 103 111 119 120 122 126 142 159	6	11 13 47 133 148 160	16
RWANDA	6	11 12 26 87 98 111	0		6
SAINT LUCIA	0		18	5 7 8 11 14 16 19 26 29 87 94 95 97 98 100 101 105 111	18
SAN MARINO	10	87 98 111 144 148 151 156 159 160 161	5	119 140 142 143 150	15
SAO TOME AND PRINCIPE	0		1	111	1
SAUDI ARABIA	5	1 30 81 100 111	0		5
SENEGAL	18	5 10 11 13 19 26 29 33 87 96 99 100 102 111 120 122 125 135	0		18
SEYCHELLES	0		11	5 8 10 11 16 26 29 58 87 99 105	11
SIERRA LEONE	25	8 16 17 19 22 26 29 45 58 59 81 87 88 94 95 98 99 100 101 105 111 119 125 126 144	1	32	26
SINGAPORE	2	7 11	0		2
SOLOMON ISLANDS	0		10	11 12 19 26 29 42 45 84 94 95	10
SOMALIA	0		7	16 19 23 29 85 105 111	7

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
SPAIN	28	1 9 11 30 68 87 92 96 97 102 103 111 119 120 122 126 131 137 140 141 144 146 153 159 162 163 164 166	0		28
SRI LANKA	10	10 11 16 58 63 81 106 115 131 135	0		10
SUDAN	4	26 100 111 122	3	29 98 105	7
SURINAME	6	11 87 105 112 122 144	0		6
SWAZILAND	5	11 87 111 131 144	0		5
SWEDEN	19	9 11 47 87 98 102 119 120 128 135 137 141 143 144 146 151 154 162 163	7	92 111 122 133 138 164 168	26
SWITZERLAND	12	11 26 58 87 102 111 120 128 141 153 163 168	0		12
SYRIAN ARAB REPUBLIC	15	1 11 30 63 81 87 106 111 123 125 129 131 135 136 139	3	119 120 144	18
TANZANIA (TANGANYIKA)	0		1	32	1
TANZANIA (UNITED REPUBLIC OF)	7	29 105 131 135 137 140 144	7	11 12 16 19 58 85 134	14
TANZANIA (ZANZIBAR)	0		2	58 97	2
THAILAND	2	105 123	4	14 19 29 122	6
TOGO	6	11 26 87 111 143 144	0		6
TRINIDAD AND TOBAGO	0		4	29 87 97 111	4
TUNISIA	13	8 11 26 58 87 91 99 111 112 119 120 122 150	0		13
TURKEY	9	11 26 58 98 99 102 111 119 122	0		9
UGANDA	6	11 26 122 143 159 162	2	154 158	8
UKRAINE	10	11 47 87 92 103 111 119 120 122 126	0		10

State Member	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
UNITED ARAB EMIRATES	1	1	0		1
UNITED KINGDOM	14	7 11 68 87 92 97 99 102 120 122 126 133 141 144	0		14
UNITED STATES	3	58 144 160	0		3
URUGUAY	25	1 9 11 30 81 87 97 103 110 111 119 122 128 129 131 133 137 141 144 148 153 155 156 159 161	0		25
VENEZUELA	11	3 13 26 81 88 100 117 118 122 139 141	20	1 11 19 22 27 29 87 97 102 105 111 120 128 142 143 144 149 150 153 155	31
YEMEN REPUBLIC	0		11	58 87 94 95 100 111 122 131 135 156 158	11
YUGOSLAVIA	0		46	8 9 11 13 14 16 19 22 23 27 29 32 53 69 73 74 81 87 91 92 97 98 100 102 103 111 113 114 119 122 126 129 131 135 136 138 139 140 142 143 148 155 156 159 161 162	46
ZAIRE	14	11 19 26 27 29 62 81 100 102 118 119 120 150 158	0		14
ZAMBIA	10	11 97 103 111 122 131 141 144 150 158	0		10
ZIMBABWE	0		1	144	1
Other States					
NAURU	0		5	19 27 29 42 105	5
SAMOA	0		2	14 29	2
SOUTH AFRICA	2	19 26	0		2

Appendix II. Statistical Table of Reports Received on Ratified Conventions as at 24 March 1993

(Article 22 of the Constitution)

Period	Reports requested	Reports received at the date requested		Reports received in time for the sesion of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1931-1932	447	-	-	406	90.8	423	94.6
1932-1933	522	-	-	435	83.3	453	86.7
1933-1934	601	-	-	508	84.5	544	90.5
1934-1935	630	-	-	584	92.7	620	98.4
1935-1936	662	-	-	577	87.2	604	91.2
1936-1937	702	-	-	580	82.6	634	90.3
1937-1938	748	-	-	616	82.4	635	84.9
1938-1939	766	-	-	588	76.8	-	-
1943-1944	583	-	-	251	43.1	314	53.9
1944-1945	725	-	-	351	48.4	523	72.2
1945-1946	731	-	-	370	50.6	578	79.1
1946-1947	763	-	-	581	76.1	666	87.3
1947-1948	799	-	-	521	65.2	648	81.1
1948-1949	806	134[1]	16.6	666	82.6	695	86.2
1949-1950	831	253	30.4	597	71.8	666	80.1
1950-1951	907	288	31.7	705	77.7	761	83.9
1951-1952	981	268	27.3	743	75.7	826	84.2
1952-1953	1026	212	20.6	840	81.8	917	89.3
1953-1954	1175	268	22.8	1077	91.7	1119	95.2
1954-1955	1234	283	22.9	1063	86.1	1170	94.8
1955-1956	1333	332	24.9	1234	92.5	1283	96.2
1956-1957	1418	210	14.7	1295	91.3	1349	95.1
1957-1958	1558	340	21.8	1484	95.2	1509	96.8
1958-1959	995[2]	200	20.4	864	86.8	902	90.6
1958-1960	1100	256	23.2	838	76.1	963	87.4
1959-1961	1362	243	18.1	1090	80.0	1142	83.8
1960-1962	1309	200	15.5	1059	80.9	1121	85.6
1961-1963	1624	280	17.2	1314	80.9	1430	88.0
1962-1964	1495	213	14.2	1268	84.8	1356	90.7
1963-1965	1700	282	16.6	1444	84.9	1527	89.8
1964-1966	1562	245	16.3	1330	85.1	1395	89.3
1965-1967	1883	323	17.4	1551	84.5	1643	89.6
1966-1968	1647	281	17.1	1409	85.5	1470	89.1
1967-1969	1821	249	13.4	1501	82.4	1601	87.9
1968-1970	1894	360	18.9	1463	77.0	1549	81.6
1969-1971	1992	237	11.8	1504	75.5	1707	85.6
1970-1972	2025	297	14.6	1572	77.6	1753	86.5
1971-1973	2048	300	14.6	1521	74.3	1691	82.5

---

[1] First year for which this figure is available.

[2] As a result of a decision by the Governing Body, detailed reports were requested as from 1958-59 until 1976 only on certain ratified Conventions.

Period	Reports requested	Reports received at the date requested		Reports received in time for the sesion of the Committee		Reports received in time for the session of the Conference	
		Number	Percentage	Number	Percentage	Number	Percentage
1972-1974	2189	370	16.5	1854	84.6	1958	89.4
1973-1975	2034	301	14.8	1663	81.7	1764	86.7
1974-1976	2200	292	13.2	1831	83.0	1914	87.0
1977	1529[3]	215	14.0	1120	73.2	1328	87.0
1978	1701	251	14.7	1289	75.7	1391	81.7
1979	1593	234	14.7	1270	79.8	1376	86.4
1980	1581	168	10.6	1302	82.2	1437	90.8
1981	1543	127	8.1	1210	78.4	1340	86.7
1982	1695	332	19.4	1382	81.4	1493	88.0
1983	1737	236	13.5	1388	79.9	1558	89.6
1984	1669	189	11.3	1286	77.0	1412	84.6
1985	1666	189	11.3	1312	78.7	1471	88.2
1986	1752	207	11.8	1388	79.2	1529	87.3
1987	1793	171	9.5	1408	78.4	1542	86,0
1988	1636	149	9.0	1230	75.9	1383	84,4
1989	1719	196	11.4	1256	73.0	1409	81,9
1990	1958	192	9,8	1409	71,9	1639	83,7
1991	2010	271	13,4	1411	69,9	1544	76,8
1992	1824	313	17,1	1194	65,4	-	-

[3] As a result of a decision by the Governing Body (November 1976), detailed reports are now requested, according to certain criteria, at yearly, two-yearly or four-yearly intervals.

II. Observations on the Application of Conventions in Non-Metropolitan Territories

(Article 22 and Article 35, Paragraphs 6 and 8, of the Constitution)

A. GENERAL OBSERVATIONS

France

French Southern and Antarctic Territories

In its previous comments the Committee has noted the comments made by the National Federation of Maritime Trade Unions on the application of a certain number of Conventions to personnel working on board ships registered in this territory.

The Committee notes the comments communicated in August and November 1992 by the National Federation of Maritime Trade Unions on the application in these territories of Conventions Nos. 8, 9, 15, 16, 22, 23, 53, 58, 68, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146 and 147, as well as on the conditions of recruitment of catering workers on board certain cruise ships. The Committee is examining these comments in its present report, whenever the questions raised have an impact on the application of the above-mentioned Conventions.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (French Guiana, Guadeloupe, Martinique, Réunion and St. Pierre and Miquelon), Netherlands (Aruba and Netherlands Antilles).

B. INDIVIDUAL OBSERVATIONS

Convention No. 3: Maternity Protection, 1919

France

French Polynesia

With reference to its previous comments, the Committee notes with satisfaction the adoption of Decision No. 91-012/AT of 17 January 1991 the provisions of which give effect to Article 3, paragraph (d) (length of rest periods for nursing), and Article 4 (protection against dismissal during maternity leave) of the Convention.

Convention No. 5: Minimum Age (Industry), 1919

A request regarding certain points is being addressed directly to United Kingdom (Isle of Man).

Convention No. 8: Unemployment Indemnity (Shipwreck), 1920

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 9: Placing of Seamen, 1920

Requests regarding certain points are being addressed directly to the following States: Denmark (Faeroe Islands), France (French Southern and Antarctic Territories, French Polynesia, New Caledonia).

Convention No. 10: Minimum Age (Agriculture), 1921

A request regarding certain points is being addressed directly to the United Kingdom (Isle of Man).

Convention No. 13: White Lead (Painting), 1921

Requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion and St. Pierre and Miquelon).

Convention No. 14: Weekly Rest (Industry), 1921

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 16: Medical Examination of Young Persons (Sea), 1921

Denmark

Faeroe Islands

Article 3 of the Convention. Further to its previous observations concerning the annual repetition of the medical examination of seafarers under the age of 18 years, the Committee notes from the Government's report that Act No. 4 of 15 January 1988 and an Order about medical examination of seafarers were now due to come into operation in the early months of 1992. The Committee hopes the Government's next report will provide full details of how compliance with this Article is ensured.

* * *

In addition, a request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 17: Workmen's Compensation (Accidents), 1925

United Kingdom

British Virgin Islands

With reference to its previous observations, the Committee notes the Government's statement that the drafting of the regulations relating to employment injury benefits has been completed and that, when adopted, they will give full effect to the provisions of Article 2, paragraph 2(c), and Articles 5, 7, 9 and 10 of the Convention. The Committee also notes that the adoption of the draft regulations by the Executive Council, to which they will be submitted shortly, constitutes the final stage of the process of the inclusion of the workmen's compensation scheme in the general social security scheme, thus ensuring as well full application of Article 11 of the Convention. The Committee therefore once again expresses the hope that these regulations will be adopted very soon so as to give full effect to the above-mentioned provisions of the Convention which have been the subject of its comments for a number of years.

Convention No. 19: Equality of Treatment (Accident Compensation), 1925

France

St. Pierre and Miquelon

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> In its previous comments the Committee noted the Government's statement that, in order to eliminate the difference in treatment between foreign workers and French wage-earners who suffer personal injury due to industrial accidents happening at St. Pierre and Miquelon and who cease to reside in French territory, the Government of the French Republic was examining the measures to be taken. It was contemplating extending to the territory of St. Pierre and Miquelon the provision in the fourth paragraph of section L.434.20 of the Social Security Code, which provides that the provisions of the laws in question may be modified by international treaties or Conventions.
>
> Since the Government's last report did not contain any information on this subject, the Committee can only express once again the hope that the Government will be able to indicate in its next report the measures taken to eliminate, in respect of foreign workers who are nationals of any other State that has ratified the Convention and their dependants, the restrictions provided in section 18 of Order No. 177 of 15 March 1966 to set up an insurance scheme covering industrial accidents in the territory of St. Pierre and Miquelon and section 29 of Decree No. 57-245 of 24 February 1957 on compensation for industrial accidents and occupational diseases in the Overseas Territories.

The Committee hopes that the Government will make every effort to take the necessary action in the very near future.

Convention No. 22: Seamen's Articles of Agreement, 1926

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 23: Repatriation of Seamen, 1926

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 26: Minimum Wage-Fixing Machinery, 1928

Requests regarding certain points are being addressed directly to the following State: United Kingdom (Anguilla, British Virgin Islands, Montserrat).

Convention No. 29: Forced Labour, 1930

France

French Polynesia

Article 2, paragraph 2(c), of the Convention. With reference to its previous comments concerning prison labour, the Committee notes the provisions of the Annex to Decision No. 88-193 AT of 8 December 1988 to regulate the penitentiary system in French Polynesia, a copy of which was provided by the Government.

The Committee is addressing a direct request to the Government concerning procedures for prison labour and particularly the guarantees and protection provided when they are hired out to an outside enterprise to perform work inside or outside the prison or directly for a private individual.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (French Polynesia); United Kingdom (Gibraltar).

Information supplied by France (French Guiana, Guadeloupe, Martinique and Réunion) in answer to a direct request has been noted by the Committee.

Convention No. 35: Old-Age Insurance (Industry, etc.), 1933

France

French Guiana, Guadeloupe, Martinique, Réunion

See under Convention No. 35, France.

New Caledonia

With reference to its previous comments, the Committee notes with satisfaction that section 1 of Decision No. 300 of 17 June 1961, as amended by section 13 of Decision No. 57 of 15 January 1990, now provides for the provision of retirement benefits to foreign workers under the same conditions as to nationals regardless of their place of residence, in accordance with Article 12, paragraph 5, of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion).

Convention No. 36: Old-Age Insurance (Agriculture), 1933

France

French Guiana, Guadeloupe, Martinique, Réunion

See under Convention No. 35, France.

New Caledonia

With reference to its previous comments, the Committee notes with satisfaction that section 1 of Decision No. 300 of 17 June 1961, as amended by section 13 of Decision No. 57 of 15 January 1990, now provides for the provision of retirement benefits to foreign workers under the same conditions as to nationals regardless of their place of residence, in accordance with Article 12, paragraph 5, of the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion).

Convention No. 37: Invalidity Insurance (Industry, etc.), 1933

France

French Guiana, Guadeloupe, Martinique, Réunion

See under Convention No. 35, France.

* * *

In addition, requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion; French Polynesia).

Convention No. 38: Invalidity Insurance (Agriculture), 1933

France

French Guiana, Guadeloupe, Martinique, Réunion

See under Convention No. 35, France.

* * *

In addition, requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion; French Polynesia).

Convention No. 53: Officers' Competency Certificates, 1936

Requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Information supplied by Denmark (Faeroe Islands) in answer to a direct request has been noted by the Committee.

Convention No. 58: Minimum Age (Sea) (Revised), 1936

Netherlands

Netherlands Antilles

The Committee notes that the Government's report has not been received. It must therefore repeat its previous observation which read as follows:

> The Committee notes that, on the advice of the Socio-Economic Council, the Government intends to re-evaluate the Labour Regulation shortly with the aim, among other objectives, of setting a minimum age of 15 years for admission to employment for all kinds of work. The Committee hopes that the Government will be able to supply further information on this subject in the near future.

* * *

In addition, a request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 63: concerning Statistics of Wages and Hours of Work, 1938

France

New Caledonia

The Committee notes the information supplied by the Government concerning the minimum wage rates provided for in collective agreements in various sectors of the economy.

With reference to the comments which it has been making for many years on this point, the Committee requests the Government to indicate the measures which have been taken or are envisaged to compile statistics of average earnings and of hours actually worked in accordance with Part II of the Convention, and statistics of wages and hours of work in agriculture in accordance with Part IV.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (St. Pierre and Miquelon), United Kingdom (Isle of Man).

Convention No. 68: Food and Catering (Ships' Crews), 1946

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 69: Certification of Ships' Cooks, 1946

Requests regarding certain points are being addressed directly to the following States: France (French Polynesia), Netherlands (Aruba).

Convention No. 73: Medical Examination (Seafarers), 1946

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 74: Certification of Able Seamen, 1946

A request regarding certain points is being addressed directly to Netherlands (Aruba).

Convention No. 77: Medical Examination of Young Persons (Industry), 1946

A request regarding certain points is being addressed directly to France (St. Pierre and Miquelon).

Convention No. 78: Medical Examination of Young Persons (Non-Industrial Occupations), 1946

A request regarding certain points is being addressed directly to France (St. Pierre and Miquelon).

Convention No. 81: Labour Inspection, 1947

Netherlands

Netherlands Antilles

Articles 16, 20 and 21 of the Convention. Further to its previous comments, the Committee notes with interest that a labour inspection report covering the years 1985-91 has been published and received by the ILO. The report contains very helpful data on the relevant legislation, the staff of the inspection service, numbers of workplaces visited and workers employed there, and industrial accidents. The Committee hopes complete annual reports will now be published and transmitted to the Office, including in addition statistics of workplaces liable to inspection (Article 21(c)), violations and penalties imposed (Article 21(e)) and occupational diseases (Article 21(g)). This will enable the Committee to have a more comprehensive picture of how the effective application of the legislation is ensured.

* * *

In addition, a request regarding certain points is being addressed directly to United Kingdom (Jersey).

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

France

French Polynesia

With reference to its previous comments concerning section 4 of the draft Decision to give effect to Book I, Title IV, Chapter I of Act No. 86-845 of 17 July 1986 respecting the legal status of trade unions, which required members responsible for the administration and management of a trade union to be French citizens, the Committee notes with satisfaction that the requirement of French nationality has been removed from section 7 of Decision No. 91-022 AT of 18 January 1991 and that foreign workers may now hold union office. This brings the legislation into fuller conformity with Article 3 of the Convention.

* * *

In addition, requests regarding certain points are addressed directly to the following States: Netherlands (Aruba, Netherlands Antilles), United Kingdom (British Virgin Islands, Isle of Man, Montserrat).

Convention No. 92: Accommodation of Crews (Revised), 1949

Requests regarding certain points are being addressed directly to Denmark (Faeroe Islands), France (French Guiana, Guadeloupe, Martinique, Réunion), United Kingdom (Hong Kong, Isle of Man).

Convention No. 98: Right to Organise and Collective Bargaining, 1949

France

French Southern and Antarctic Territories

The Committee recalls that the initial comments by the National Federation of Seamen's Trade Unions (FNSM) dated 9 July 1986 and 4 September 1987 concerned the registration of vessels in the French Southern and Antarctic Territories as set out in Decree No. 87.190 of 20 March 1987 and the Order of 20 March 1987. Under this system, the proportion of crew members of French nationality may not be less than 25 per cent of the seafarers registered on the crew list, including between two and four officers according to the type of vessel. According to the FNSM, this system signified that 75 per cent of the crew would be made up of foreign seafarers engaged under discriminatory conditions, with a view to reducing the crewing costs as much as possible by substantially lowering the conditions of employment of the foreign seafarers who were engaged. According to the FNSM, which repeats its opinion in a communication dated 12 August 1992, these provisions are contrary to Convention No. 98.

In its report, which reached the ILO on 13 February 1992, the Government states that the overseas Labour Code (Act No. 52.1322 of 15 December 1952), which is among the legislation cited by Decree No. 87.190, is applicable to seafarers on board vessels.

According to the Government, sections 4 and 42 of the Code apply the first Article of the Convention relating to protection against acts of anti-union discrimination, and sections 68 et seq. of chapter IV, concerning collective and other labour agreements, fully promote collective bargaining.

The Government states that the legislation which is force in the French Southern and Antarctic Territories does not deprive trade union organizations of seafarers from the right to negotiate collective agreements. However, it recognizes that up to now no collective agreement has been concluded and states that this omission is due to the social partners. It adds that, as a consequence, the Secretary of State for the Sea is endeavouring to give rise to a commitment to negotiation in order to establish enterprise level collective agreements.

The Government concludes by rejecting the comments made by the FNSM as being groundless.

While noting that the overseas Labour Code is applicable to seafarers on board vessels registered in the French Southern and Antarctic Territories, the Committee expresses the firm hope that the Government will state in its next report whether the invitation made by the Secretary of State for the Sea to the social partners in the maritime sector to negotiate has resulted in the conclusion of collective agreements on vessels registered in the French Southern and Antarctic Territories. It recalls that by ratifying the Convention, the Government undertook to encourage and promote the development and utilization of machinery for voluntary negotiation with a view to the regulation of terms and conditions of employment of seafarers. It requests the Government to supply a copy of any agreement which has been concluded.

Convention No. 99: Minimum Wage Fixing Machinery (Agriculture), 1951

A request regarding certain points is being addressed directly to United Kingdom (Anguilla).

Convention No. 100: Equal Remuneration, 1951

Requests regarding certain points are being addressed directly to France (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Convention No. 101: Holidays with Pay (Agriculture), 1952

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 105: Abolition of Forced Labour, 1957

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 106: Weekly Rest (Commerce and Offices), 1957

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 108: Seafarers' Identity Documents, 1958

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 111: Discrimination (Employment and Occupation), 1958

France

French Southern and Antarctic Territories

1. With reference to its previous comments, the Committee takes note of the Government's reports and the comments of the National Federation of Maritime Trade Unions (FNSM), dated August and November 1992.

2. The Committee recalls that the comments which the FNSM has been making for many years concern the system for registration of vessels in the TAAF, which is governed by Decree No. 87-190 of 20 March 1987 and the Order of 20 March 1987. According to this legislation, the proportion of crew members of French nationality may not be less than 25 per cent of the seafarers registered on the crew list, including two to four officers depending on the type of vessel. According to the FNSM, this means that 75 per cent of registered crews can be comprised of foreign seafarers engaged under discriminatory conditions, the purpose being to reduce crew costs as far as possible by cutting back on the social conditions of the foreigners so engaged.

3. The Committee noted the Government's arguments, inter alia, that the differences in remuneration are based only on differences in functions and qualifications and not on any of the grounds of discrimination set out in Convention No. 111, and that, in any case, the Convention does not cover the situation of persons of foreign nationality. Nevertheless, the Committee observed that section 91 of the Overseas Labour Code (Act No. 52-1322 of 15 December 1952), which applies to seafarers aboard vessels registered in TAAF, provides for equal remuneration irrespective of the worker's origin, and that any preference or distinction based on the origin of the worker would therefore constitute a specified discrimination, in the meaning of Article 1, paragraph 1(b), of the Convention. It asked the Government to indicate the measures taken or envisaged to bring national practice into conformity with the Convention.

4. The FNSM's most recent comments indicate that the situation has not changed. They point out that an Order of 3 November 1992 extends the possibility of TAAF registration to vessels of the tanker class which transport oil. The Government's reports repeat its

arguments noted above. The Committee would appreciate receiving any additional reply from the Government to the FNSM's recent communications.

5. The Committee, in the meantime, must draw the Government's attention to the conclusions reached in its 1992 observation to the effect that by virtue of section 91 of the Overseas Labour Code, the origin of the worker has been specified as a further ground of discrimination in addition to those listed in Article 1, paragraph 1(a), of the Convention and that consequently any distinction based on this ground constitutes a discrimination for the purpose of the Convention, in accordance with Article 1, paragraph 1(b), of the Convention. The Government is bound under Article 3(c) to eliminate such discrimination. The Committee accordingly requests the Government, in its next report, to indicate what measures have been taken or are contemplated to bring national practice into conformity with section 91 of the Overseas Labour Code and the Convention.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: France (French Guiana, French Polynesia, French Southern and Antarctic Territories, Guadeloupe, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon) and New Zealand (Tokelau).

Convention No. 115: Radiation Protection, 1960

A request regarding certain points is being addressed directly to France (French Polynesia).

Convention No. 120: Hygiene (Commerce and Offices), 1964

Requests regarding certain points are being addressed directly to France (French Polynesia and New Caledonia).

Convention No. 121: Employment Injury Benefits, 1964

A request regarding certain points is being addressed directly to Netherlands (Aruba).

Convention No. 122: Employment Policy, 1964

Requests regarding certain points are being addressed directly to the following States: France (St. Pierre and Miquelon); Netherlands (Aruba, Netherlands Antilles); United Kingdom (Guernsey).

Convention No. 126: Accommodation of Crews (Fishermen), 1966

Requests regarding certain points are being addressed directly to France (French Guiana, French Polynesia, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon).

Information supplied by United Kingdom (Isle of Man) and Denmark (Greenland) in answer to a direct request has been noted by the Committee.

Convention No. 131: Minimum Wage Fixing, 1970

Requests regarding certain points are being addressed directly to the following States: France (French Guiana, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), Netherlands (Aruba).

Information supplied by France (French Polynesia and New Caledonia) in answer to a direct request has been noted by the Committee.

Convention No. 134: Prevention of Accidents (Seafarers), 1970

France

French Southern and Antarctic Territories

Referring to its general observation concerning the French Southern and Antarctic Territories, the Committee hopes that the Government will supply information on the manner in which the Convention is applied to ships registered in these territories.

[The Government is asked to report in detail for the period ending 30 June 1993.]

Convention No. 137: Dock Work, 1973

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 140: Paid Educational Leave, 1974

A request regarding certain points is being addressed directly to Netherlands (Aruba).

Convention No. 141: Rural Workers' Organisations, 1975

A request regarding certain points is being addressed directly to the Netherlands (Aruba).

Convention No. 142: Human Resources Development, 1975

Requests regarding certain points are being addressed directly to the following States: France (French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia, Réunion, St. Pierre and Miquelon), Netherlands (Aruba), United Kingdom (Gibraltar, Guernsey).

Convention No. 144: Tripartite Consultation (International Labour Standards), 1976

Requests regarding certain points are being addressed directly to the following States: France (New Caledonia, French Polynesia), Netherlands (Aruba).

Convention No. 146: Seafarers' Annual Leave with Pay, 1976

Requests regarding certain points are being addressed directly to the following States: France (French Guiana, French Polynesia, French Southern and Antarctic Territories, Guadeloupe, Martinique, Réunion, St. Pierre and Miquelon), Netherlands (Aruba).

Convention No. 147: Merchant Shipping (Minimum Standards), 1976

A request regarding certain points is being addressed directly to France (French Southern and Antarctic Territories).

Convention No. 149: Nursing Personnel, 1977

A request regarding certain points is being addressed directly to France (St. Pierre and Miquelon).

Convention No. 160: Labour Statistics, 1985

A request regarding certain points is being addressed directly to the United Kingdom (Jersey).

Appendix. Receipt of Detailed Reports on Ratified Conventions (Non-Metropolitan Territories) as at 24 March 1993

(Article 22 and 35 of the Constitution)

Countries and Territories	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
Grand Total	142		183		325
AUSTRALIA					
NORFOLK ISLAND	5	11 47 87 112 122	0		5
TOTAL	5		0		5
DENMARK					
FAEROE ISLANDS	6	7 9 11 87 92 126	0		6
GREENLAND	5	7 11 87 122 126	0		5
TOTAL	11		0		11
FRANCE					
FR. SOUTHERN & ANTARCTIC TER.	11	9 16 58 68 73 87 98 108 111 146 147	7	15 53 69 74 92 133 134	18
FRENCH GUIANA	3	9 68 87	28	3 5 13 32 35 36 53 58 69 74 81 92 94 95 100 111 112 120 125 126 129 131 133 136 141 142 144 146	31
FRENCH POLYNESIA	16	3 9 11 37 38 58 69 87 111 120 122 126 131 141 144 146	0		16
GUADELOUPE	3	9 68 87	30	3 5 11 13 32 35 36 37 38 53 58 69 74 81 92 94 95 100 111 112 120 125 126 131 133 136 141 142 144 146	33

Countries and Territories	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
MARTINIQUE	3	9 68 87	31	3 5 11 13 32 35 36 37 38 53 58 69 74 81 92 94 95 100 111 112 120 124 125 126 131 133 136 141 142 144 146	34
NEW CALEDONIA	16	3 9 11 35 36 58 87 111 120 122 126 131 141 144 146 147	1	142	17
REUNION	3	9 68 87	30	3 5 11 13 32 35 36 37 38 53 58 69 74 81 92 94 95 100 111 112 120 125 126 131 133 136 141 142 144 146	33
ST. PIERRE AND MIQUELON	0		31	3 5 9 11 13 19 33 35 36 53 58 63 69 81 82 87 94 95 96 100 111 120 122 125 126 131 141 142 144 146 149	31
TOTAL	55		158		213
NETHERLANDS					
ARUBA	0		13	9 11 69 74 87 118 122 126 131 137 141 144 146	13
NETHERLANDS ANTILLES	0		5	9 11 58 87 122	5
TOTAL	0		18		18
-NEW ZEALAND					
TOKELAU ISLANDS	1	111	0		1
TOTAL	1		0		1
UNITED KINGDOM					
ANGUILLA	6	11 26 58 87 97 99	0		6
BERMUDA	4	11 58 87 133	0		4
BRITISH VIRGIN ISLANDS	6	11 17 26 58 87 97	0		6
FALKLAND ISLANDS (MALVINAS)	4	11 58 87 141	0		4
GIBRALTAR	5	11 23 58 87 133	0		5
GUERNSEY	8	7 11 32 87 97 99 122 141	0		8

Countries and Territories	*Reports received*		*Reports not received*		*Grand total*
	Total	*Conventions Nos.*	*Total*	*Conventions Nos.*	
HONG KONG	10	3 11 58 87 92 97 122 133 141 144	1	26	11
ISLE OF MAN	10	7 11 68 87 92 97 99 102 122 126	0		10
JERSEY	5	7 11 87 97 99	0		5
MONTSERRAT	5	11 26 58 87 97	0		5
ST. HELENA	3	11 58 87	0		3
TOTAL	66		1		67
UNITED STATES					
AMERICAN SAMOA	1	58	1	144	2
GUAM	1	58	1	144	2
NORTHERN MARIANA ISLANDS	0		1	144	1
PALAU	0		1	144	1
PUERTO RICO	1	58	1	144	2
UNITED STATES VIRGIN ISLANDS	1	58	1	144	2
TOTAL	4		6		10

III. Observations concerning the Submission to the Competent Authorities of the Conventions and Recommendations Adopted by the International Labour Conference

(Article 19 of the Constitution)

Algeria

The Committee notes with regret that the Government has not replied to its previous observations and recalls that the instruments adopted from the 65th to 72nd Sessions and at the 75th Session of the Conference, which were transmitted to the General Secretariat of the Government and to the President of the Republic should also be submitted as soon as circumstances permit to the People's National Assembly as the authority vested with the power to issue general rules concerning labour law, pursuant to article 115 of the Algerian Constitution. The Committee hopes that the Government will shortly be able to indicate whether the instruments adopted at the 74th, 76th and 77th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Antigua and Barbuda

The Committee notes with regret that for the seventh consecutive year the Government has not replied to its previous comments. It recalls that the instruments adopted at the 68th Session of the Conference, which were submitted to the Cabinet, should also have been submitted, in accordance with articles 19, 5(b) and 6(b) of the Constitution of the ILO, to the authorities that are empowered to legislate. The Committee therefore trusts that the Government will submit the above instruments, together with those adopted at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th Sessions, to the legislative body. The Committee points out that the obligation to submit does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations under consideration. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities.

Bangladesh

With reference to its previous comments, the Committee notes the information supplied by the Government in its report and at the

Conference Committee in 1992, to the effect that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference were placed before the Parliamentary Standing Committee on 11 May 1992 and that the Committee expressed the opinion that they should be submitted to Parliament. It also notes the discussion that ensued in the Conference Committee and the latter's conclusions. In the absence of any further information, the Committee trusts that the Government will indicate in the near future that these instruments have been submitted and that it will supply the information and documents concerning them that are requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Belize

With reference to its previous comments, the Committee notes the information supplied by the Government to the Conference Committee in 1992 and the subsequent discussion. According to that information, problems of an administrative nature have prevented the submission of the instruments adopted from the 69th to the 76th Sessions of the Conference although, in view of the fact that the preparatory work for their submission has been completed, these instruments will be submitted in the near future.

The Committee therefore hopes that the Government will soon be able to indicate that the instruments adopted from the 69th to the 76th Sessions of the Conference have been submitted to the National Assembly, which is empowered to legislate by virtue of articles 62 and 69 of the National Constitution, and that it will supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Bolivia

The Committee notes that the Government has not replied to its previous observation. It trusts that the Government will shortly supply, in respect of the instruments adopted at the 60th and from the 63rd to 75th Sessions of the Conference, which have already been submitted to Congress, the information and documents requested in the Memorandum adopted by the Governing Body (points II(b) and (c), and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Brazil

The Committee notes that the Government has not replied to its previous observation in which it noted that the remaining instruments (Conventions Nos. 128 to 130, 149 to 151, 156 and 157) were shortly to be examined by the tripartite committees with a view to their submission to Congress. The Committee therefore trusts that the Government will submit the above-mentioned instruments to Congress, together with those adopted at the 78th Session of the Conference.

Cambodia

The Committee regrets to note the lack of information concerning the submission to the competent authorities of the instruments adopted by the Conference.

Cape Verde

Further to its previous comments, the Committee notes with satisfaction, according to the information supplied by the Government in its report, the submission to the competent authorities of the instruments adopted at the 75th, 76th, 77th and 78th Sessions of the Conference.

Central African Republic

The Committee notes with regret that, this year once again, the Government has not replied to its previous observations. It trusts that the Government will shortly indicate that the instruments adopted at the 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities and that it will provide, in respect of these instruments and of the instruments adopted at the 65th, 69th, 70th, 71st, 72nd and 74th Sessions, which have already been submitted, the information and documents required by the Memorandum adopted by the Governing Body (points I, II and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Congo

Further to its previous comments, the Committee notes the statement made by a Government representative before the Conference Committee in 1992 concerning the reasons for the delay in submitting instruments adopted by the Conference to the competent authorities. It also notes the discussion that ensued and the Committee's conclusions. The Committee trusts that the Government will indicate in the near future that the instruments adopted at the 60th, 61st, 62nd, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th

Sessions of the Conference and the remaining instruments of the 54th, 55th, 58th, 63rd and 67th Sessions (Conventions Nos. 137, 148 and 156 and Recommendations Nos. 135 to 142, 145, 156, 163, 164 and 165) have been submitted to the competent authorities.

Costa Rica

With reference to its previous comments, the Committee notes that according to the information supplied by the Government the Conventions adopted at the 71st, 72nd, 74th, 75th and 77th Sessions of the Conference have still not been submitted to the competent authorities. The Committee hopes that the Government will be able to indicate in the near future that the Conventions adopted at the above sessions have been submitted, since the first attempt to submit the above instruments was cancelled for procedural reasons, according to the information supplied by the Government in its report.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply that governments must ratify the Conventions or accept the Recommendations in question.

Djibouti

The Committee notes with regret that, this year once again, the Government has not replied to the observations it has been making since 1988. It trusts that the Government will soon indicate that the instruments adopted at the 66th, 68th, 69th, 70th, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities, and that it will provide, in respect of the above instruments and of those adopted at the 71st and 72nd Sessions, the information and documents requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Ecuador

The Committee notes the information supplied by the Government in its report to the effect that the instrument adopted at the 76th Session of the Conference has been submitted to the National Congress. The Committee hopes that the Government will indicate in the near future that the instruments adopted at the 74th, 75th and 77th Sessions of the Conference have been submitted to Congress. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have also been submitted.

El Salvador

The Committee notes with regret that, once again this year, the Government has not replied to the observations that it has been making since 1989. In view of the fact that peace has been restored, the Committee trusts that the Government will be able to indicate soon that the instruments adopted at the 62nd, 65th, 66th, 67th, 68th, 70th, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference, and the remaining instruments of the 63rd, 64th, 69th and 71st Sessions (Conventions Nos. 148, 151, 161; Recommendations Nos. 156, 157, 158, 159, 167, 171) have been submitted to the competent authorities and that it will provide in respect of these instruments the documents and information requested in the Memorandum adopted by the Governing Body (points II(a), (b) and (c), and III of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Fiji

The Committee notes with interest that the instruments adopted at the 71st, 72nd and 74th Sessions of the Conference have been submitted to the competent authorities. The Committee takes note of the information supplied by the Government concerning the decision to submit the instruments adopted at the 75th, 76th and 77th Sessions of the Conference to the new Government and hopes that the Government will shortly indicate whether these instruments have indeed been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Gabon

Further to its previous comments, the Committee notes the information supplied by the Government according to which the obstacles which prevented submission to the National Assembly have been overcome and that the procedure of submitting the instruments in question will commence. It hopes that the Government will soon indicate that the instruments adopted at the 65th, 66th, 67th, 68th, 69th and 70th Sessions of the Conference have been submitted to the National Assembly, as well as those adopted at the 72nd, 74th, 75th, 76th and 77th Sessions.

The Committee also hopes that the Government will supply information on the decisions taken concerning Conventions Nos. 133, 134 and 139 and Recommendations Nos. 129 to 132, 136 to 138, 140 to 142, 144, 147, 148 and 154, and that it will supply a copy of the document by which they were submitted to the National Assembly in 1981.

Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Grenada

With reference to its previous observation, the Committee notes with interest from the information supplied by the Government that the instruments adopted at the 76th and 77th Session of the Conference have been submitted to Parliament. The Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted. It hopes that the Government will provide, in respect of the instruments submitted to Parliament, the information requested in the Memorandum adopted by the Governing Body regarding the Government's proposals or comments on the measures that might be taken in respect of the instruments in question (point II(b) of the questionnaire). It recalls that the obligation to submit the instruments to the competent authorities does not imply any obligation to propose the ratification or application of the instrument in question.

Guinea

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that the Government will soon provide, in respect of the instruments adopted from the 68th to 75th Sessions of the Conference, which have already been submitted to the competent authorities, the information requested under points II(b) and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. It also hopes that the Government will indicate that the instruments adopted at the 76th and 77th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Guinea-Bissau

Further to its earlier comments, the Committee notes with satisfaction from the information supplied by the Government that the instruments adopted from the 63rd to 78th Sessions of the Conference have been submitted to the People's National Assembly.

Guyana

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly indicate that the instruments adopted at the 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to Parliament. Moreover, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

The Committee recalls that the obligation to submit instruments adopted by the Conference does not imply that Conventions must be ratified or Recommendations accepted.

Haiti

With reference to its previous comments, the Committee takes note with interest of the information supplied by the Government to the effect that Convention No. 156 and Recommendation No. 165, adopted at the 67th Session of the Conference, the instruments adopted at the 69th and 70th Sessions, Convention No. 160 and Recommendations Nos. 170 and 171 adopted at the 71st Session, the instruments adopted at the 72nd and 74th Sessions, and Convention No. 167 adopted at the 75th Session have been submitted to the competent authorities. The Committee hopes that the Government will soon be able to indicate that the remaining instruments of the 67th Session (Conventions Nos. 154 and 155 and Recommendations Nos. 163 and 164), the instruments adopted at the 68th Session, the remaining instruments of the 75th Session (Convention No. 168 and Recommendations Nos. 175 and 176) and all the instruments adopted at the 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities.

Honduras

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will soon supply, with regard to the instruments adopted at the 69th, 71st and 72nd Sessions of the Conference, which have already been submitted, the information that is requested in the Memorandum adopted by the Governing Body (points II(b) and (c) and III of the questionnaire), as well as a copy of the document by which the instruments adopted at the 75th Session were submitted. The Committee hopes that the Government will also supply a copy of the communication by which the instruments adopted at the 67th Session were submitted to the National Assembly by the President of the Republic, and a copy of the communication by which the Minister of Foreign Affairs submitted the instrument adopted at the 70th Session to the Assembly, and that it will indicate whether the remaining instruments adopted at the 74th Session and the instruments adopted at the 76th and 77th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would also indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

India

With reference to its previous comments, the Committee notes with interest the information provided by the Government to the effect that the instruments adopted at the 71st, 72nd and 75th Sessions of the Conference have been submitted to the competent authorities. The Committee hopes that the Government will shortly indicate that instruments adopted at the 74th, 76th and 77th Sessions have been submitted. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Islamic Republic of Iran

The Committee notes the information supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 78th Session of the Conference. It hopes that the Government will provide in respect of these instruments the information requested at point II(b) and (c) of the questionnaire at the end of the Memorandum adopted by the Governing Body.

The Committee notes with regret that the Government has not replied to its previous observations. It trusts that the Government will shortly indicate the date on which the instruments adopted from the 62nd to 76th Sessions of the Conference were submitted to the competent authorities and that it will supply copies of the corresponding submission documents, in accordance with the aforementioned Memorandum (point II(c) of the questionnaire).

Italy

The Committee notes that the Government has not replied to its previous direct requests. It hopes that the Government will soon supply a copy of the communication by which the instrument adopted at the 76th Session of the Conference was submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Jamaica

The Committee notes with regret that the Government has not replied to its observations for several years. It trusts that the Government will shortly indicate that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to Parliament. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

In its previous comments, the Committee recalled the statement by a Government representative to the Conference Committee in 1984 that Convention No. 132, Recommendation No. 136 and the instruments adopted from the 61st to 69th Sessions of the Conference had been submitted to Parliament. The Committee expressed the hope that the Government would provide the other information and documents required by the Memorandum adopted by the Governing Body (points I and II of the questionnaire) (except as concerns Conventions Nos. 149 and 150, which have been ratified, and the corresponding Recommendations, Nos. 157 and 158), and that it would supply information on the proposals made and decisions taken with respect to the 45 instruments submitted to Parliament by a communication of the Minister of Labour and Employment dated 22 November 1976. The Committee once again expresses the hope that the Government will shortly provide the information and documents in question.

Kenya

With reference to its previous observation, the Committee notes the information supplied by the Government in its report and the statement by a Government representative at the Conference Committee in 1992 to the effect that the delay in the submission of various instruments is due to some unavoidable administrative difficulties and a general shortage of staff. The Committee also notes that according to the same information, the necessary technical work has been completed for the submission of Conventions Nos. 154 (67th Session) and 169 (76th Session). The Committee trusts that the Government will be able to indicate in the near future that the instruments adopted at the 69th, 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

The Committee recalls that the obligation to submit the instruments adopted by the Conference does not imply that the Government must ratify the Conventions or accept the Recommendations.

Lao People's Democratic Republic

The Committee notes with interest the information and documents supplied by the Government concerning the submission to the competent authorities of the instruments adopted at the 76th and 78th Sessions of the Conference.

The Committee trusts that the Government will provide information on the action to be taken in respect of the instruments adopted from the 66th to 75th Sessions of the Conference, which have already been submitted to the competent authorities, and that it will be able to continue to submit, in stages if necessary, the remaining instruments (adopted from the 48th to 65th Sessions) in the near future.

Lebanon

Further to its previous observation, the Committee notes the information supplied by the Government to the effect that it has completed the examination of the instruments adopted from the 67th to the 77th Sessions of the Conference. It also notes the explanations provided by a Government representative to the Conference Committee in 1992 concerning the difficulties which prevented the submission of the above instruments to the competent authorities within the established time-limits, and the subsequent discussion. The Committee hopes that the Government will be able to indicate in the near future that all the instruments adopted from the 67th to the 78th Sessions, as well as the instruments adopted from the 31st to the 50th Sessions of the Conference, have been submitted to the competent authorities.

Lesotho

The Committee notes with regret that, this year once again, the Government has not replied to its previous observations. It trusts that the Government will soon indicate that Convention No. 157 adopted at the 68th Session of the Conference, and the instruments adopted at the 69th, 70th, 74th, 75th, 76th and 77th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Libyan Arab Jamahiriya

The Committee notes with regret that the Government has not replied to its previous observations. It hopes that the Government will soon indicate that the instruments adopted at the 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Madagascar

The Committee notes with regret that the Government has not replied to the observations it has been making since 1988. It trusts that the Government will shortly supply information on the proposals made at the time of the submission of the instruments adopted at the 69th Session of the Conference, and will indicate that the instruments adopted at the 55th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Malawi

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly be able to provide the specific information on the submission to the competent authorities of numerous Conventions adopted at various Sessions of the Conference (from the 55th to 75th) required by the Memorandum adopted by the Governing Body (point I of the questionnaire at the end of the Memorandum). The Committee also hopes that Conventions Nos. 143 (60th Session), 145 (62nd Session) and 169 (76th Session), and Recommendations Nos. 137 to 142, 145 to 151, 153 to 156, 158 to 165, 167, and 169 to 176, will also be submitted in the near future. In addition, the Committee would also be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Mali

The Committee notes that the Government has not replied to its previous observation. It hopes that the instruments adopted at the 74th, 75th and 76th Sessions of the Conference, which have already been transmitted to the Council of Ministers, will be submitted to the National Assembly as soon as possible, and that the Government will be able to indicate shortly that this submission has indeed taken place. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Mauritius

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will shortly be able to indicate whether the remaining instruments adopted at the 60th (Conventions Nos. 141 and 142, Recommendations Nos. 149 and 150), 63rd (Convention No. 149 and Recommendation No. 157), 65th (Convention No. 152 and Recommendation No. 160), 69th (Recommendation No. 167) and 71st Sessions (Convention No. 160 and Recommendation No. 170), and the instruments adopted at the 64th, 66th, 68th and 70th Sessions of the Conference have been submitted to Parliament. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Mongolia

Further to its previous comments, the Committee notes from the information supplied by the Government that the instruments adopted at the 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities. It hopes that the Government will shortly be able to provide information on the proposals and decisions concerning the instruments adopted at the 68th, 69th, 70th and 71st Sessions of the Conference which have already been submitted to the competent authorities. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Mozambique

The Committee notes that the Government has not replied to its previous direct requests. It hopes that it will soon indicate that the instruments adopted at the 69th, 70th, 71st and 72nd Sessions of the Conference, which have already been submitted to the Council of Ministers, have been submitted to the Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Nepal

Further to its previous comments, the Committee notes with satisfaction, according to the information supplied by the Government, the submission to Parliament of the remaining instruments from the 54th and 67th Sessions of the Conference (Conventions Nos. 132 and 154; Recommendations Nos. 135 and 136), as well as of the instruments adopted at the 53rd, from the 55th to the 61st and at the 66th, 75th, 76th, 77th and 78th Sessions. The Committee requests the Government to supply the information requested in the Memorandum adopted by the Governing Body and particularly in point II(b) of the questionnaire.

Pakistan

With reference to its previous observation, the Committee notes the statement made by a Government representative to the Conference Committee in 1992 to the effect that most of the Conventions adopted by the Conference from at least the 70th to the 77th Sessions have been sent to the competent authority recently. The Committee also notes the discussion which followed this statement, and the conclusions of the Conference Committee. In the absence of other information, the Committee hopes that the Government will be able to indicate in the near future that the instruments adopted from the 69th to the 77th Sessions of the Conference have been submitted. Furthermore, it would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Panama

With reference to its previous comments, the Committee notes the information supplied by the Government to the effect that Conventions Nos. 160 and 161 (71st Session) and No. 162 (72nd Session) have been submitted to the competent authorities. The Committee hopes that the other instruments adopted at the 71st Session (Recommendations Nos. 170 and 171) and 72nd Session (Recommendation No. 172) will also be submitted in the near future to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities.

Papua New Guinea

With reference to its previous comments, the Committee notes the information provided by the Government at the Conference Committee in 1992 and the discussion that followed. According to this information, the instruments adopted from the 70th to 77th Sessions were forwarded to and have the approval of the National Executive Council - the highest governmental authority - and their submission for adoption to the National Parliament is now only a formality. The Committee hopes that the Government will shortly be able to indicate that the instruments adopted from the 66th to 77th Sessions of the Conference, as well as those adopted at the 78th Session, have been submitted to the competent authorities. It recalls that the obligation to submit instruments does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations in question. Governments have every latitude as to the nature of their proposals on Conventions and Recommendations submitted to the competent authorities.

Paraguay

Further to its previous observation, the Committee takes note of the information supplied by the Government at the Conference Committee in 1992, concerning the administrative difficulties due to extensive institutional, legislative and personnel changes, which have prevented the instruments in question from being submitted to the competent authorities, as well as the discussion that followed and the Conference Committee's conclusions. The Committee hopes that the Government will shortly be able to indicate that the instruments adopted at the 68th, 69th (Recommendation No. 167), 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities. Moreover, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

The Committee recalls that the obligation to submit instruments adopted by the Conference does not imply any obligation to ratify Conventions or accept Recommendations.

Peru

The Committee notes that the Government has not replied to its previous observation. The Committee hopes that the Government will shortly provide copies of the documents whereby Conventions Nos. 153, 155 and 157, and Recommendations Nos. 161, 164 and 167, adopted at the 65th, 67th, 68th and 69th Sessions of the Conference were submitted to Congress, together with the information requested in points II and III of the questionnaire at the end of the Memorandum adopted by the Governing Body. Furthermore, the Committee hopes that the Government will shortly be able to indicate that the instruments adopted at the 70th, 72nd, 74th, 75th and 76th Sessions, and the remaining instruments of the 77th Session (Convention No. 171 and Recommendation No. 178) and the instruments adopted at the 78th Session of the Conference have also been submitted.

Saint Lucia

The Committee notes with regret that the Government has not replied to the observations it has been making since 1990. It trusts that the Government will indicate shortly that the instruments adopted at the 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th and 76th Sessions of the Conference have been submitted to the competent authorities and that it will provide, in respect of these instruments, the information and documents required in the Memorandum adopted by the Governing Body, particularly as concerns the nature of the competent authority and the Government's proposals or comments on the action to be taken in respect of the instruments concerned (points I(a) and II(b) of the questionnaire). Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions have been submitted. In this connection, it recalls that the authorities to which the instruments must be submitted are those empowered to legislate, and that the obligation to submit instruments to them does not imply that governments must propose their ratification or application.

Seychelles

The Committee notes with regret that, this year once again, the Government has not replied to the observations it has been making since 1982. Consequently, it reiterates the firm hope that it will shortly indicate that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent authorities in accordance with article 19, paragraphs 5(b), and 6(b), of the ILO Constitution. The Committee recalls in this connection that the authorities to which the instruments must be submitted are those empowered to legislate, in this case, the People's Assembly. The Committee also recalls that the obligation to submit the Conventions and Recommendations of the ILO does not imply that governments must propose the ratification of the Conventions or the application of the Recommendations in question. Governments have complete freedom as to the nature of the proposals to be made when submitting Conventions and Recommendations to the competent authorities. Lastly, the Committee recalls that governments have the possibility of requesting ILO technical cooperation in areas where they encounter difficulties.

Sierra Leone

With reference to its previous observation, the Committee notes the statement by a Government representative at the Conference Committee in 1992 concerning the lack of human resources and the organizational problems which have prevented the preparation of reports on submission and other subjects. It also notes the subsequent discussion and the conclusions of the Conference Committee. The Committee trusts that it will be possible to overcome the difficulties in question and that the Government will indicate in the near future that the instruments adopted at the 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 74th, 75th, 76th, 77th and

78th Sessions of the Conference, as well as Convention No. 146 and Recommendation No. 154, adopted at the 62nd Session, have been submitted to the competent authorities.

Solomon Islands

The Committee notes that the Government has not replied to its previous observation. It hopes that the Government will indicate shortly whether any proposals have been made concerning the instruments adopted at the 74th Session of the Conference, which have already been submitted to the competent authorities, and that it will specify their content, as required by the Memorandum adopted by the Governing Body (point II(c) of the questionnaire). The Committee also hopes that the Government will soon indicate that the instruments adopted at the 70th, 71st, 72nd, 75th, 76th and 77th Sessions have been submitted. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Suriname

With reference to its previous observation, the Committee notes with interest the information supplied by the Government in its report to the effect that the instruments adopted at the 65th (Conventions Nos. 152 and 153), 66th, 67th (Conventions Nos. 155 and 156), 68th (Convention No. 157), 69th, 70th, 71st (Convention No. 161 and Recommendation No. 171), 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the competent legislative authority. The Committee would be grateful if the Government would indicate whether the instruments adopted at the 65th (Recommendations Nos. 160 and 161), 67th (Convention No. 154 and Recommendations Nos. 163, 164 and 165), 68th (Convention No. 158 and Recommendation No. 166) and 71st (Convention No. 160 and Recommendation No. 170) and 72nd Sessions of the Conference have been submitted. It requests the Government to supply in this connection the information and documents requested in the Memorandum adopted by the Governing Body.

Syrian Arab Republic

With reference to its previous observation, the Committee notes, according to the information supplied by the Government, that the tripartite ministerial commission responsible for examining the instruments adopted at the 65th, 66th, 69th, 70th, 71st, 72nd, 75th and 76th Sessions before their submission to the People's Assembly will complete its work in the near future. The Committee also notes the procedure under which the Ministry of Health, the Public Social Insurance Institution and the Ministry of Industry were requested to examine, respectively, Conventions Nos. 170 and 171 (77th Session) and to give their opinions on these instruments. It hopes that the Government will be able to indicate in the near future that these instruments have been submitted and that it will supply in this regard the information and documents requested in the Memorandum adopted by the Governing Body. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

United Republic of Tanzania

The Committee notes with regret that the Government has not replied to its previous observations and hopes that it will shortly be able to indicate that it has submitted to the National Assembly the instruments adopted at the 72nd, 74th, 75th and 76th Sessions of the Conference, as well as the instruments adopted at the 66th, 67th and 68th Sessions which have been transmitted to the Ministry of Labour and Development. Lastly, the Committee hopes that the Government will indicate the dates on which the instruments adopted from the 54th to 65th Sessions, as well as those adopted at the 69th, 70th and 71st Sessions, were submitted to the Assembly. The Committee would also be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted.

Thailand

With reference to its previous comments, the Committee notes from the information supplied by the Government that the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference have been submitted to the Cabinet and that they will be submitted to Parliament. Furthermore, the Committee hopes that the instruments adopted at the 72nd Session will also be submitted. The Committee would be grateful if the Government would supply in the near future a copy of the document by which these instruments are submitted to Parliament.

Trinidad and Tobago

The Committee notes with regret that the Government has not replied to its previous observations and hopes that it will shortly be able to indicate that the instruments adopted from the 74th to 76th Sessions of the Conference have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 77th and 78th Sessions of the Conference have been submitted to the competent authorities.

Uganda

With reference to its previous comments, the Committee notes from the information supplied by the Government that the procedure for the submission of the instruments adopted at the 74th, 75th, 76th, 77th and 78th Sessions of the Conference has begun. The Committee hopes that the Government will shortly be able to indicate that these instruments have been submitted to the competent authorities.

Venezuela

With reference to its previous comments, the Committee notes the information supplied by the Government to the effect that the instruments adopted at the 74th and 76th Sessions of the Conference are currently undergoing the process of submission to the competent authorities. The Committee once again hopes that the Government will state in the near future that the above instruments have been submitted to the competent authority.

In the absence of other information in reply to its previous observation, the Committee hopes that the Government will supply in the near future, with regard to the instruments adopted at the 70th and 72nd Sessions of the Conference, the information and documents requested in the Memorandum adopted by the Governing Body, and that it will indicate whether Convention No. 161 and Recommendation No. 171 (71st Session) and the instruments adopted at the 75th and 77th Sessions have been submitted to the competent authorities. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

Zaire

With reference to its previous observation, the Committee notes the statement made by a Government representative to the Conference Committee in 1992 to the effect that the procedure of submission to the competent authorities has been commenced for the instruments adopted from the 70th to the 77th Sessions of the Conference, that the instruments adopted up to the 69th Session were submitted only to the President of the Republic and that, after the work of the National Conference, Conventions will be submitted both to the President of the Republic and to the National Assembly. The Committee also notes the subsequent discussion in the Conference Committee and its conclusions. In the absence of other information, the Committee hopes that the Government will be able to state in the near future that the instruments adopted at the 70th, 71st, 72nd, 74th, 75th, 76th and 77th Sessions of the Conference have been submitted to the competent authorities. The Committee also hopes that the Government will be able to indicate in the near future that the instruments adopted at the 62nd and from the 66th to the 69th Sessions of the Conference, which have already been submitted to the President of the Republic, have also been submitted to the National Assembly. Furthermore, the Committee would be grateful if the Government would indicate whether the instruments adopted at the 78th Session of the Conference have been submitted.

* * *

In addition, requests regarding certain points are being addressed directly to the following States: Afghanistan, Angola, Argentina, Austria, Bahamas, Bahrain, Belarus, Belgium, Benin, Botswana, Bulgaria, Burkina Faso, Cameroon, Chad, Chile, China, Colombia, Cuba, Cyprus, Denmark, Dominica, Egypt, France, Germany, Greece, Guatemala, Hungary, Iraq, Ireland, Israel, Jordan, Kuwait, Malaysia, Mauritania, Morocco, Namibia, Netherlands, Niger, Nigeria, Philippines, Portugal, Qatar, Russian Federation, Rwanda, San Marino, Sao Tome and Principe, Senegal, Spain, Sri Lanka, Sudan, Swaziland, United Arab Emirates, United Kingdom, Uruguay, Yemen, Zambia and Zimbabwe.

Appendix I. Information Supplied by Governments with Regard to the Obligation to Submit Conventions and Recommendations to the Competent Authorities

(31st to 78th Sessions of the International
Labour Conference, 1948-91)[1]

__Note__. The number of the Convention or Recommendation is given in parentheses, preceded by the letter "C" or "R" as the case may be, when only some of the texts adopted at any one session have been submitted. Ratified Conventions are considered as having been submitted.

Account has been taken of the date of admission or readmission of States Members to the ILO for determining the sessions of the Conference whose texts are taken into consideration.

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Afghanistan	31 to 70	71, 72, 74, 75, 76, 77 and 78
Algeria	47 to 72	74, 75, 76, 77 and 78
Angola	61 to 77	78
Antigua and Barbuda	68	69, 70, 71, 72, 74, 75, 76, 77 and 78
Argentina	31 to 77	78
Australia	31 to 78	-
Austria	31 to 77	78
Bahamas	61 to 76	77 and 78
Bahrain	63 to 76	77 and 78
Bangladesh	58 to 69	70, 71 72, 74, 75, 76, 77 and 78
Barbados	51 to 78	-

---

[1] The Conference did not adopt any Conventions or Recommendations at its 57th Session (June 1972) and 73rd Session (June 1987).

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Belarus, Republic of	37 to 77	78
Belgium	31 to 74	75, 76, 77 and 78
Belize	68	69, 70, 71, 72, 74, 75, 76, 77 and 78
Benin	45 to 74	75, 76, 77 and 78
Bolivia	31 to 76	77, 78
Botswana	64 to 76	77 and 78
Brazil	31 to 50, 51 (C 127; R 128, 129, 130, 131), 53 (R 133, 134), 54 to 62, 63 (C 148; R 156, 157), 64 (R 158, 159), 65, 66, 67 (C 154, 155; R 163, 164, 165) 68 (C 158; R 166), 69 to 77	51 (C 128), 53 (C 129, 130), 63 (C 149), 64,(C 150, 151), 67 (C 156), 68 (C 157) and 78
Bulgaria	31 to 76	77 and 78
Burkina Faso	45 to 76	77 and 78
Burundi	47 to 78	-
Cambodia	53, 54 and 56	55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
Cameroon	44 to 68, 72 and 74	69, 70, 71, 75, 76, 77 and 78
Canada	31 to 78	-
Cape Verde	65 to 78	-
Central African Republic	45 to 74	75, 76, 77 and 78
Chad	45 to 74	75, 76, 77 and 78
Chile	31 to 74, 76 and 77	75 and 78
China	69 to 77	78
Colombia	31 to 70, 71 (C 160; R 170) 75 (C 167; R 175), 76 and 77 (C 170; R 177)	71 (C 161; R 171), 72, 74, 75 (C 168; R 176) 77 (C 171; R. 178) and 78
Comoros	65 to 78	-

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Congo	45 to 53, 54 (C 131, 132), 55 (C 133, 134), 56, 58 (C 138; R 146), 59, 63 (C 149; R 157), 64 to 66 and 67 (C 154, 155)	54 (R 135, 136), 55 (R 137, 138, 139, 140, 141, 142), 58 (C 137; R 145), 60, 61, 62, 63 (C 148; R 156), 67 (C 156; R 163, 164, 165), 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
Costa Rica	31 to 70, 71 (R 170, 171), 72 (R 172), 74 (R 173, 174), 75 (R 175, 176) 76 and 77 (R 177, 178)	71 (C 160, 161), 72 (C 162), 74 (C 163, 164, 165, 166), 75 (C 167, 168), 77 (C 170, 171) and 78
Côte d'Ivoire	45 to 78	-
Cuba	31 to 78	-
Cyprus	45 to 77	78
Czech and Slovak, Federal Republic	31 to 75, 77	76 and 78
Denmark	31 to 77	78
Djibouti	64, 65, 67, 71 and 72	66, 68, 69, 70, 74, 75, 76, 77 and 78
Dominica	68, 69 (C 159; R 167), 70 à 75 and 77	69 (R 168), 76 and 78
Dominican Republic	31 to 78	-
Ecuador	31 to 72, and 76	74, 75, 77 and 78
Egypt	31 to 78	-
El Salvador	31 to 61, 63 (C 149), 64 (C 150), 69 (C 159; R 168), and 71 (C 160; R 170)	62, 63 (C 148; R 156, 157), 64 (C 151; R 158, 159), 65, 66, 67, 68, 69 (R 167), 70 71 (C 161; R 171), 72, 74, 75, 76, 77 and 78
Equatorial Guinea	67 to 78	-
Ethiopia	31 to 78	-
Fiji	59 to 74	75, 76, 77 and 78
Finland	31 to 78	-
France	31 to 78	-

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Gabon	45 to 71	72, 74, 75, 76, 77 and 78
Germany	34 to 70, 71 (C 160; R 170), 72, 75 (C 167; R 175) and 76	71 (C 161; R 171), 74, 75 (C 168; R 176), 77 and 78
Ghana	40 to 78	-
Greece	31 to 75	76, 77 and 78
Grenada	66 to 77	78
Guatemala	31 to 70, 71 (C 160, 161; R 171), 72 and 75 (C 167; R 175)	71 (R 170), 74, 75 (C 168; R 176), 76, 77 and 78
Guinea	43 to 75	76, 77 and 78
Guinea-Bissau	63 to 78	71, 72, 74, 75, 76 and 77
Guyana	50 to 70	71, 72, 74, 75, 76, 77 and 78
Haiti	31 to 66, 67 (C 156; R 165) 69, 70 to 74 and 75 (C 167)	67 (C 154, 155; R 163, 164) 68, 75 (C 168; R 175, 176) 76, 77 and 78
Honduras	39 to 66, 68, 69, 71, 72 and 74 (C 164, 165, 166; R 174), 75 (C 167)	67, 70, 74 (C.163; R. 173), 75 (C 168; R 175, 176), 76, 77 and 78
Hungary	31 to 75	76, 77 and 78
Iceland	31 to 78	-
India	31 to 72, 75	74, 76, 77 and 78
Indonesia	33 to 78	-
Iran, Islamic Republic of	31 to 78	-
Iraq	31 to 78	-
Ireland	31 to 71, 74, 75 and 77	72, 76 and 78
Israel	32 to 77	78
Italy	31 to 76	77 and 78
Jamaica	47 to 69	70, 71, 72, 74 to 78

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Japan	35 to 78	-
Jordan	39 to 71, 74 and 76	72, 75, 77 and 78
Kenya	48 to 68	69, 70, 71, 72, 74, 75, 76 77 and 78
Kuwait	45 to 72, 74, 75 (C 167; R 175) 76 and 78	75 (C 168; R 176) and 77
Lao, People's democratic Republic of	66 to 78	48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65
Lebanon	31 (C 88, 89, 90; R 83), 32 (C 95, 98; R 85), 34 (C 100; R 90), 35 (C 102, 103), 40 (C 105, 106; R 103), 42 (C 111; R 111), 44 (C 115), 45 (C 116), 46 (C 117, 118), 47 (C 119), 48 (C 120, 121, 122; R 120, 122), 49 (C 123, 124), 50 (C 125, 126) and 51 to 66	31 (C 87), 32 (C 91, 92, 93, 94, 96, 97; R 84, 86, 87), 33, 34 (C 99; R 89, 91, 92), 35 (C 101; R 93, 94, 95), 36, 37, 38, 39, 40 (C 107; R 104), 41, 42 (C 110; R 110), 43, 44 (R 113, 114), 45 (R 115), 46 (R 116, 117), 47 (R 118, 119), 48 (R 121) 49 (R 123, 124, 125), 50 (R 126, 127), 67, 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
Lesotho	66, 67, 68 (C 158; R 166), 71 and 72	68 (C 157), 69, 70, 74, 75, 76, 77 and 78
Liberia	31 to 75	76, 77 and 78
Libyan Arab Jamahiriya	35 to 72	74, 75, 76, 77 and 78
Luxembourg	31 to 78	-
Madagascar	45 to 54, 56 to 70	55, 71, 72, 74, 75, 76, 77 and 78
Malawi	49 to 54, 55 (C 133, 134), 56, 58 (C 137, 138), 59 (C 139, 140), 60 (C 141, 142), 61, 62 (C 146, 147), 63 (C 148, 149; R 157), 64 (C 150, 151), 65 (C 152, 153), 67 (C 154, 155, 156), 68, 69 (C 159; R 168), 71 (C 160, 161), 72 (C 162), 74 (C 163, 164, 165, 166) and 75 (C 167, 168)	55 (R 137, 138, 139, 140, 141, 142), 58 (R 145, 146), 59 (R 47, 148), 60 (C 143; R 149, 150, 151), 62 (C 145; R 153, 154, 155), 63 (R 156), 64 (R 158, 159), 65 (R 160, 161), 66, 67 (R 163, 164, 165), 69 (R 167), 70, 71 (R 170, 171), 72 (R 172), 74 (R 173, 174), 75 (R 175, 176), 76, 77 and 78
Malaysia	41 to 76	77 and 78

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Mali	44 to 72	74, 75, 76, 77 and 78
Malta	49 to 78	-
Mauritania	45 to 77	78
Mauritius	53 to 59, 60 (C 143; R 151), 61, 62, 63 (C 148; R 156), 65 (C 153; R 161), 67, 69 (C 159; R 168), 71 (C 161; R 171) and 72 to 76	60 (C 141, 142; R 149, 150), 63 (C 149; R 157), 64, 65 (C 152; R 160), 66, 68, 69 (R 167), 70, 71 (C 160; R 170), 77 and 78
Mexico	31 to 78	-
Mongolia	53 to 77	78
Morocco	39 to 76	77 and 78
Mozambique	61 to 76	77 and 78
Myanmar	31 to 78	-
Nepal	51 to 78	-
Netherlands	31 to 78	-
New Zealand	31 to 78	-
Nicaragua	40 to 78	-
Niger	45 to 74 and 78	75, 76 and 77
Nigeria	45 to 77	78
Norway	31 to 78	-
Pakistan	31 to 68	69, 70, 71, 72, 74, 75, 76 , 77 and 78
Panama	31 to 69, 71 (C 160, 161), 72 (C 162)	70, 71(R 170, 171), 72 (R 172), 74, 75, 76, 77 and 78
Papua New Guinea	61 to 65	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
Paraguay	40 to 67 and 69 (C 159; R 168)	68, 69 (R 167), 70, 71, 72, 74, 75, 76, 77 and 78

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Peru	31 to 69, 71 and 77 (C 170; R 177)	70, 72, 74, 75, 76, 77 (C 171; R 178) and 78
Philippines	31 to 77	78
Poland	31 to 78	-
Portugal	31 to 78	-
Qatar	58 to 77	78
Romania	39 to 78	-
Russian Federation	37 to 76 and 78	77
Rwanda	47 to 77	78
Saint-Lucia	-	66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
San Marino	69 to 77	78
Sao Tome and Principe	68 to 76	77 and 78
Saudi Arabia	61 to 78	-
Senegal	44 to 76	77 and 78
Seychelles	-	63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
Sierra Leone	45 to 62 (C 145, 147; R 153, 155)	62 (C 146; R 154), 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77 and 78
Singapore	50 to 78	-
Solomon Islands	74	70, 71, 72, 75, 76, 77 and 78
Somalia	45 to 75	76, 77 and 78
Spain	39 to 62, 63 (C 148; R 156,), 64 to 74, 71, 75 (C167; R 175), 76, and 77	63 (C 149; R 157), 75 (C 168; R 176) and 78
Sri Lanka	31 to 72	74, 75, 76, 77 and 78
Sudan	39 to 71, 74, 75, 76, 77 and 78	72

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Suriname	61 to 64, 65 (C 152, 153), 66, 67 (C. 155, 156), 68 (C 157) 69, 70, 71 (C 161, R 171), 74, 75, 76 77 and 78	65 (R 160, 161), 67 (C.154; R 163, 164, 165), 68 (C 158, R 166), 71 (C. 160, R 170) 72
Swaziland	60 to 76 and 77 (C 170; R 177)	77 (C 171; R 178) and 78
Sweden	31 to 78	-
Switzerland	31 to 78	-
Syrian Arab Republic	31 to 64, 67, 68 and 74	65, 66, 69, 70, 71, 72, 75, 76, 77 and 78
Tanzania, United Republic of	46 to 65, 69 to 71	66, 67, 68, 72, 74, 75, 76, 77 and 78
Thailand	31 to 71	72, 74, 75, 76, 77 and 78
Togo	44 to 78	-
Trinidad and Tobago	47 to 72	74, 75, 76, 77 and 78
Tunisia	39 to 78	-
Turkey	31 to 78	-
Uganda	47 to 72	74, 75, 76, 77 and 78
Ukraine	37 to 78	-
United Arab Emirates	58 to 77	78
United Kingdom	31 to 78	-
United States	31 to 78	-
Uruguay	31 to 75	76, 77 and 78
Venezuela	31 to 70, 71 (C 160; R 170) and 72	71 (C 161; R 171), 74, 75, 76, 77 and 78
Yemen	49 to 72 and 75	74, 76, 77 and 78
Yugoslavia	31 to 75	76, 77 and 78
Zaire	45 to 69	70, 71, 72, 74, 75, 76, 77 and 78

State	Sessions of which the adopted texts have been submitted to the authorities considered as competent by governments	Sessions of which the adopted texts have not been submitted (including cases in which no information has been supplied)
Zambia	49 to 76	77 and 78
Zimbabwe	66 to 77	78

Appendix II. Overall position of member States as at 24 March 1993

Sessions at which decisions were adopted	Number of States in which, according to information supplied by Government,			Number of States which were Members of the Organisation at the time of the session
	All the texts have been submitted	Some of these texts have been submitted	None of these texts have been submitted (including cases in which no information has been supplied by the Government)	
31 (June 1948)	58	2	–	60
32 (June 1949)	59	2	–	61
33 (June 1950)	61	–[1]	2	63
34 (June 1951)	62	2	–	64
35 (June 1952)	64	2	–	66
36 (June 1953)	64	–	2	66
37 (June 1954)	67	–[1]	2	69
38 (June 1955)	67	1	2	69
39 (June 1956)	74	–	2	76
40 (June 1957)	75	2	–	77
41 (April/May 1958)	77	1	1	79
42 (June 1958)	78	1	–	79
43 (June 1959)	78	1	1	80
44 (June 1960)	81	1	1	83
45 (June 1961)	99	2	–	101
46 (June 1962)	101	1	–	102
47 (June 1963)	107	1	–	108
48 (June/July 1964)	108	1	1	110
49 (June 1965)	112	1	1	114
50 (June 1966)	111	3	1	115
51 (June 1967)	117	–	–	117
52 (June 1968)	115	–[1]	3	118
53 (June 1969)	119	1	1	121
54 (June 1970)	117	2	2	121
55 (October 1970)	116	3	2	121
56 (June 1971)	120	–	1	121
58 (June 1973)	118	3	2	123
59 (June 1974)	122	1	2	125
60 (June 1975)	121	2	3	126
61 (June 1976)	123	–	8	131
62 (October 1976)	123	1	8	132
63 (June 1977)	112	5	18	135
64 (June 1978)	125	4	7	136
65 (June 1979)	124	2	13	139
66 (June 1980)	121	–[1]	23	144
67 (June 1981)	126	6	13	145
68 (June 1982)	125	4	21	150
69 (June 1983)	124	4	22	150
70 (June 1984)	117	–[1]	33	150
71 (June 1985)	114	9	27	150
72 (June 1986)	113	2	35	150
74 (Sept.-Oct. 1987)	104	2	44	150
75 (June 1988)	95	6	49	150
76 (June 1989)	85	–	65	150
77 (June 1990)	65	3	82	150
78 (June 1991)	49	–	100	149

---

[1] At this session the Conference adopted one Recommendation only.

Price: 50 Swiss francs
ISBN 92-2-108499-X

If this address is wrong, please return this sheet to the sender or, at least, the part bearing the address

Pour tout changement d'adresse, prière de renvoyer à l'expéditeur cette feuille ou, du moins, la partie comportant l'adresse

Sírvase indicar el cambio de dirección del destinatario y enviar esta hoja al remitente, o al menos la parte en que está escrita la dirección

INTERNATIONAL LABOUR OFFICE
BUREAU INTERNATIONAL DU TRAVAIL
OFICINA INTERNACIONAL DEL TRABAJO
CH-1211 GENÈVE 22

P.P.
1211 GENÈVE 22